



The Calcutta Gazette

THURSDAY, MAY 19, 1927.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 3rd April, 1927, and is hereby promulgated for general information :—

ACT NO. IX OF 1927.

An Act further to amend the Indian Limitation Act, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Limitation (Second Amendment) Act, 1927.

(2) It shall come into force on the 1st day of January, 1928.

Amendment of Article 182, Schedule I, Act IX of 1908.

2. In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Article No. 182—

IX of 1908.

(a) in clause 5 of the entry in the third column, for the word "applying" the words "the final order passed on an application made" shall be substituted ; and

(b) for clause 6 of the same entry the following shall be substituted, namely :—

"6. (in respect of any amount, recovered by execution of the decree or order, which the decree-holder has been directed to refund by a decree passed in a suit for such refund) the date of such last-mentioned decree or, in the case of an appeal therefrom, the date of the final decree of the Appellate Court or of the withdrawal of the appeal".

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).



The Calcutta Gazette

THURSDAY, MAY 26, 1927.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 30th March 1927, and is hereby promulgated for general information :—

ACT NO. V OF 1927.

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Tariff Act, 1894, the Indian Stamp Act, 1899, and the Indian Paper Currency Act, 1923, and to fix rates of income-tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Tariff Act, 1894, the Indian Stamp Act, 1899, and the Indian Paper Currency Act, 1923, and to fix rates of income-tax : It is hereby enacted as follows :—

VI of 1898.
VIII of
1894.
II of 1899.
X of 1923.

Short title, extent
and duration.

1. (1) This Act may be called the Indian Finance Act, 1927.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 2 and 3 shall remain in force only up to the 31st day of March 1928.

Fixation of salt
duty.

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1927, they

XII of 1882.

impose such duty at the rate of one rupee and four annas per maund of eighty-two and two-seventh pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

Postal rates.

3. With effect from the 1st day of April, 1927, the schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act. VI of 1898.

Amendment of Act VIII of 1894.

4. With effect from the 1st day of March, 1927, the following amendments shall be made in the Indian Tariff Act, 1894, namely:—

VIII of 1894.

(1) In the Second Schedule to that Act there shall be made the amendments specified in Part I of the Second Schedule to this Act.

(2) In the Third Schedule to that Act there shall be made the amendment specified in Part II of the Second Schedule to this Act.

Amendment of Act II of 1899.

5. With effect from the 1st day of July, 1927, the following amendments shall be made in the Indian Stamp Act, 1899, namely:—

II of 1899.

(1) In section 3—

(a) in clause (b), the word "cheque" shall be omitted, and after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted; and

(b) in clause (c), the word "cheque" shall be omitted.

(2) In clause (b) of section 11, the word "cheques" shall be omitted.

(3) In sub-section (1) of section 18, the word "cheque" shall be omitted.

(4) In section 19, after the words "bill of exchange", where they first occur, the words "payable otherwise than on demand" shall be inserted, and the word "cheque", in both places where it occurs, shall be omitted.

(5) In section 47, for the words "promissory note or cheque" the words "or promissory note" shall be substituted, and for the words "note or cheque", wherever they occur thereafter, the words "or note" shall be substituted.

(6) In clause (c) of section 49,—

(a) the word "cheques" shall be omitted, and after the words "bills of exchange" the words "payable otherwise than on demand" shall be inserted;

(b) the words "or cheque", wherever they occur, shall be omitted;

(c) the word "cheque", wherever it occurs elsewhere, shall be omitted; and

(d) for the words "any bill of exchange", where they occur for the first time in sub-clauses (1) and (3), the words "any such bill of exchange" shall be substituted.

(7) In clause (a) of sub-section (1) of section 62, the word "cheque" shall be omitted, and after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted.

(8) In section 67, after the words "bill of exchange" the words "payable otherwise than on demand" shall be inserted.

(9) In article No. 13 of Schedule I, the word, figure and brackets "and (3)" shall be omitted, and the letter, brackets and words "(a) where payable on demand", together with the entry "one-anna" in the second column against those words, shall be omitted.

(10) Article No. 21 of Schedule I shall be omitted.

Amendment of
Act X of 1923.

6. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923, for the figures "1927" the figures X of 1923. "1928" shall substituted.

Income-tax and
super-tax.

7. (1) Income-tax for the year beginning on the 1st day of April, 1927, shall be charged at the rates specified in Part I of the Third Schedule.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1927, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those XI of 1922. specified in Part II of the Third Schedule.

(3) For the purposes of the Third Schedule, "total income" means total income as determined, for the purpose of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, XI of 1922. 1922.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 3.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[See section 7.]

Letters.

For a weight not exceeding two and a half tolas	...	...	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	...	...	One anna.

Postcards.

Single	...	...	Half an anna.
Reply	...	...	One anna.

Book, Pattern and Sample Packets.

For every five tolas or fraction thereof	Half an anna.
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Registered Newspapers.

For a weight not exceeding eight tolas	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	...	...	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	...	...	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	...	...	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	...	...	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	...	...	Four annas."

SCHEDULE II.

[See section 4.]

PART I.

Amendments to the Second Schedule to the Indian Tariff Act, 1894.

- (1) (a) For item No. 10-A, the following item shall be substituted, namely :—
 “10-A RUBBER STUMPS, rubber seeds and raw rubber.”

(b) In item No. 76, for the words “excluding oil-seeds imported into British India by sea from the territories of any Prince or Chief in India (see No. 6)” the words “not otherwise specified” shall be substituted.

- (2) For item No. 36, the following item shall be substituted, namely :—

	Rs. A.
“36—TOBACCO, unmanufactured (pound) ...	... 1 8”

- (3) (a) After item No. 42, the following heading and item shall be inserted, namely :—

“CARRIAGES AND CARTS.

42-A	MOTOR CARS, motor cycles, and motor scooters and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof : provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in No. 87 shall be dutiable at the rate of duty specified for such articles.	Ad valorem	20 per cent ”
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(b) In item No. 87, for the figures “127” the figures and letter “42-A” shall be substituted.

(c) In item No. 115, for the words and figures “Nos. 53 and 139” the word and figures “No. 53” shall be substituted.

- (d) Items Nos. 127 and 139 shall be omitted.

PART II.

Amendment to the Third Schedule to the Indian Tariff Act, 1894.

Item No. 5 and the heading thereto shall be omitted.

SCHEDULE III.

[See section 7.]

PART I.

Rates of Income-tax.

- A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—

	Rate.
(1) When the total income is less than Rs. 2,000 ...	Nil.
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000 ...	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000 ...	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000 ...	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000 ...	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000 ...	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards ...	One anna and six pies in the rupee.

- B. In the case of every company and registered firm, whatever its total income ...
- | | |
|--|-------------------------------------|
| | One anna and six pies in the rupee. |
|--|-------------------------------------|

PART II.

Rates of Super-tax.

In respect of the excess over fifty thousand rupees of total income :—

	Rate.
(1) in the case of every company	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty-five thousand rupees of the excess	Nil.
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess	One anna in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the second fifty thousand rupees of such excess	One and a half annas in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three and a half annas in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four and a half annas in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five and a half annas in the rupee.
(x) for every rupee of the remainder of the excess	Six annas in the rupee.

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 3rd April, 1927, and is hereby promulgated for general information :—

ACT NO. VII OF 1927.

*An Act further to amend the Provident Funds Act, 1925
for a certain purpose.*

WHEREAS it is expedient further to amend the Provident Funds Act, 1925, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provident Funds (Amendment) Act, 1927.

Amendment of
section 2, Act XIX
of 1925.

2. In clause (d) of section 2 of the Provident Funds Act, 1925, for the words "for teachers in educational institutions" the following words shall be substituted, namely :—

"of persons employed in educational institutions or employed by bodies existing solely for educational purposes."

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 3rd April, 1927, and is hereby promulgated for general information :—

ACT No. VIII OF 1927.

*An Act further to amend the Sea Customs Act, 1878,
for a certain purpose.*

WHEREAS it is expedient further to amend the Sea Customs Act, 1878, for the purpose hereinafter appearing; it is hereby enacted as follows :—

Short title.

1. This Act may be called the Sea Customs (Amendment) Act, 1927.

Insertion of new section 34A in Act VIII of 1878.

2. After section 34 of the Sea Customs Act, 1878 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

Abatement of duty on goods on which duty is levied on quantity.

“ 34A. Where the Customs-collector is satisfied that any goods on which duties are levied on quantity and not on value, and which are of a kind to which the Governor General in Council has, by notification in the Gazette of India, declared that the provisions of this section shall apply, have before delivery of the bill of entry deteriorated to the extent of more than one-tenth of their value, he may allow an abatement of duty proportionate to the extent of such deterioration.”

Amendment of section 35, Act VIII of 1878.

3. In section 35 of the said Act, for the word “ damage ” the words “ any deterioration ” shall be substituted, and after the words “ beer, or ” the words “ save as provided by section 34A ” shall be inserted.

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 26th March, 1927, and is hereby promulgated for general information :—

ACT No. IV OF 1927.

An Act further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor-General in Council certain obligations in regard to the purchase of gold and the sale of gold or sterling.

WHEREAS it is expedient further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor-General in Council certain obligations in regard to the purchase of gold and the sale of gold or sterling; it is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Currency Act, 1927.
- (2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

- (3) It shall come into force on the 1st day of April, 1927.

Amendment of Act III of 1906.

2. In the Indian Coinage Act, 1906,—

III of 1906.

- (a) for section 11 the following section shall be substituted, namely :—

Demonetization of sovereign and half-sovereign.

- " 11. Gold coins, whether coined at His Majesty's Royal Mint or at any Mint established in pursuance of a proclamation of His Majesty as a branch of his Majesty's Royal Mint, shall not be legal tender in British India in payment or on account, but such coins shall be received at any Government currency office and, at any time after the 30th day of September, 1927, at any Government Treasury other than a Sub-Treasury, at the bullion value of such coins calculated at the rate of 8·47512 grains troy of fine gold per rupee "; and

- (b) the word " and " at the end of clause (d) of sub-section (2) of section 21 and clause (e) of that sub-section shall be omitted.

Amendment of Act X of 1923.

3. In the Indian Paper Currency Act, 1923,—

X of 1923.

- (a) to section 2 after the words " in this behalf " the following shall be added, namely :—

" and

' gold bullion ' includes gold coin ";

- (b) in clause (a) of section 11, the words " or in gold coin which is legal tender under the Indian Coinage Act, 1906," shall be omitted ;

(c) in section 13—

- (i) the words “for gold coin which is not legal tender under the Indian Coinage Act, 1906, or” shall be omitted; and
- (ii) for the figures “11·30016” the figures “8·47512” shall be substituted;

(d) in section 18—

- (i) in sub-section (4), the words “sovereigns, half-sovereigns” and the words “coin and” shall be omitted; and
- (ii) in clause (a) of sub-section (3), for the figures “11·30016” the figures “8·47512” shall be substituted;

(e) in section 19—

- (i) in sub-section (3), the words “sovereigns, half-sovereigns” shall be omitted, and, in the *Explanation*, after the word “sub-section”, the following words and figures shall be inserted, namely:—
“gold bullion shall be reckoned at the rate of one rupee for 8·47512 grains troy of fine gold, and”;
- (ii) in sub-section (5), the words “coin or” and the word “coin”, where it occurs for the second time, shall be omitted.

Obligation upon Government to purchase gold bullion tendered for sale.

4. Any person who offers for sale to the Governor-General in Council at the office of the Master of the Mint, Bombay, or at any other place notified in this behalf by the Governor-General in Council in the *Gazette of India*, gold in the form of bars containing not less than forty tolas of fine gold shall, subject to such conditions as the Governor-General in Council may, by notification in the *Gazette of India*, prescribe, be entitled to receive payment for the same at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold.

Obligation upon Government to sell gold or sterling.

5. (1) The Governor-General in Council shall sell, to any person who makes a demand in that behalf at the office of the Controller of the Currency, Calcutta, or of the Deputy Controller of the Currency, Bombay, and pays the purchase price in legal tender currency, gold for delivery at the Bombay Mint at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold or, at the option of the Controller or the Deputy Controller, as the case may be, sterling for immediate delivery in London at an equivalent rate:

Provided that no person shall be entitled to demand an amount of gold or sterling of less value than that of 1,065 tolas of fine gold.

(2) For the purpose of determining the equivalent rate applicable to the sale of sterling under this section, twenty-one rupees, three annas and ten pies shall be deemed to be equivalent to such sum in sterling as is required to purchase one tola of fine gold in London at the rate at which the Bank of England is bound by law to give sterling in exchange for gold, after deduction therefrom of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to London, including interest on its value during transit.

(3) The Governor-General in Council shall, from time to time, determine the equivalent rate in accordance with the provisions of sub-section (2), and shall notify the rate so determined in the *Gazette of India*.

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).



The Calcutta Gazette

THURSDAY, JUNE 2, 1927.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 18th February, 1927, and is hereby promulgated for general information :—

ACT NO. II OF 1927.

An Act further to amend the Indian Registration Act, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Registration Act, 1908, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

XVI of
1908.

Short title

1. This Act may be called the Indian Registration (Amendment) Act, 1927.

Amendment of
section 17, Act
XVI of 1908.

2. In sub-section (2) of section 17 of the Indian Registration Act, 1908, after clause (xii), the following *Explanation* shall be inserted, namely :—

XVI of
1908.

“Explanation.—A document purporting to effect a contract for the sale of immoveable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.”

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, JANUARY, 13, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Delhi, the 4th December 1926.

No. F.-128—I-26—A.C.—Under rule 18 of the Indian Legislative Rules the Governor General has been pleased to order the publication in *Gazette of India* of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and Statement of Objects and Reasons are accordingly published for general information :—

BILL NO. 45 OF 1926.

A Bill further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1927.

(2) It shall come into force on the 1st day of April, 1927.

Amendment of section 10, Act XI of 1922.

2. In sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act),—

(a) after clause (vii) the following clause shall be inserted, namely :—

“(viii) in respect of the replacement of animals which have been used for the purposes of the business otherwise than as stock in trade and

have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals replaced and the amount, if any, realised or realisable in respect of the carcasses or animals, as the case may be"; and

(b) after clause (ix) the following proviso shall be inserted, namely :—

"Provided that nothing in clause (viii) or clause (ix) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or assessed at a proportion of or otherwise on the basis of any such profits or gains".

Amendment of section 14, Act XI of 1922

3. In clause (b) of sub-section (2) of section 14 of the said Act, after the words "his share in the firm" the words "at the time of such assessment" shall be added.

Insertion of new section 25A in Act XI of 1922

4. After section 25 of the said Act the following section shall be inserted, namely :—

Assessment in case of partition of Hindu undivided family

"25A. (1) Where any separation of interest occurs in any year among the members of a Hindu undivided family of which any income, profits or gains have not been assessed to tax before the date of such separation, a separate assessment shall be made in respect of such income, profits or gains or, where such income, profits or gains have accrued or arisen or been received during a period exceeding one year, in respect of the income, profits or gains of each year or part of a year included in such period, and the sum or sums payable as tax in respect of such income, profits or gains shall, notwithstanding anything contained in sub-section (1) of section 14, be payable by the members or portions of the family who or which have become separate, in proportion to their respective shares in the family property as finally determined for the purpose of the separation.

(2) When any such separation occurs, notice of the separation shall be given to the Income-tax Officer within fifteen days thereof and, if such notice is not so given, the Income-tax Officer may direct that to the amount of tax recoverable under sub-section (1) in respect of any assessment there shall be added by way of penalty such sum not exceeding that amount as he may determine.

(3) Where an assessment is to be made under sub-section (1), the Income-tax Officer may serve on any person who was a member of the undivided family immediately before the date of the separation a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section."

Amendment of section 26 Act XI of 1922.

5. For section 26 of the said Act the following section shall be substituted, namely :—

Change in ownership of business, profession or vocation.

"26. (1) Where any change has occurred in the constitution of a firm of which any income, profits or gains have not been assessed to tax before the date of such change, such income, profits or gains shall be deemed to be income, profits or gains of the firm as constituted at the time of the making of the assessment, and the assessment in respect thereof shall be made accordingly.

(2) Where any person has succeeded to any business, profession or vocation of which any income, profits or gains have not been assessed to tax before the date of such succession, a separate assessment in respect of such income, profits or gains, or, where such income, profits or gains have accrued, arisen or been received during a period exceeding one year, a separate assessment in respect

of the income, profits or gains of each year or part of a year included in such period, shall be made on the person engaged in the business, profession or vocation at the time of the making of such assessment, and the sum payable as tax in respect of such income, profits or gains shall be the sum which would have been so payable if the succession had not occurred.

Explanation.—Where any person has succeeded to the business of a registered firm, the assessment shall be made as if the firm had continued to be a registered firm.

Amendment of
section 35, Act XI
of 1922.

6. In sub-section (1) of section 35 of the said Act,—

(a) before the words “the Income-tax Officer may” the following words shall be inserted, namely :—

“The Commissioner or Assistant Commissioner may, at any time within one year from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 33 and ” :

(b) for the words “of the assessment” the words “of the appeal, revision or assessment, as the case may be,” shall be substituted ;

(c) for the words “such assessee” the words “the assessee” shall be substituted ; and

(d) in the proviso, for the words “the Income-tax Officer” the words “the Commissioner, the Assistant Commissioner or the Income-tax Officer, as the case may be.” shall be substituted.

Amendment of
section 42, Act XI
of 1922.

7. For sub-section (1) of section 42 of the said Act the following sub-sections shall be substituted, namely :—

“(1) All profits or gains accruing or arising to any person, whether directly or indirectly, from any property in British India or from any business carried on or transacted in British India by such person or, in the case of a person not resident in British India, by any agency or branch in British India on his behalf, shall, notwithstanding that they are not received in British India, be deemed, within the meaning and for the purposes of sub-section (1) of section 4, to be income accruing or arising within British India and shall be chargeable to income-tax under the head “Property” or the head “Business”, as the case may be, and, in the case of a non-resident person, shall be charged in the name of the agent of such person, and such agent shall be deemed to be for all the purposes of this Act the assessee in respect of such income-tax :

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of a non-resident person which are, or may at any time come, within British India.

(1A) For the purposes of sub-section (1), the amount of the profits or gains which shall be deemed to have accrued or arisen in British India in respect of any merchandise exported from British India shall be the profits or gains which would have accrued or arisen if such merchandise had been sold at the port of export after delivery on board ship.

(1B) Nothing in sub-section (1) or sub-section (1A) shall be deemed to relieve from liability to tax any profits or gains which have been received in British India by or on behalf of any person.

(1C) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India, the whole

profits or gains arising from such transaction shall be deemed to have accrued and arisen and to have been received in British India, and no allowance shall be made under clause (ix) of sub-section (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains."

Amendment of
section 46,
Act XI of 1922.

8. After sub-section (1) of section 46 of the said Act the following sub-section shall be inserted, namely :—

"(1A) For the purposes of sub-section (1) the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable."

Amendment of
section 48,
Act XI of 1922.

9. To section 48 of the said Act the following sub-sections shall be added, namely :—

"(4) For the purposes of this section, "total income" includes, in the case of an person not resident in British India, all income, profits and gains wherever arising, accruing or received, which, if arising, accruing or received in British India, would be included in the computation of total income under section 16.

(5) Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India."

4 and 5 Geo.
5, c. 17.

Amendment of
section 56,
Act XI of 1922.

10. The proviso to section 56 of the said Act shall be omitted.

Insertion of new
section 65A
in Act XI of 1922
Condition requisite
for registration
of a firm.

11. After section 65 of the said Act the following section shall be inserted, namely :—

"65A. Nothing in clause (14) of section 2 shall be deemed to require an Income-tax Officer to register the prescribed particulars in regard to any firm if he is not satisfied that the profits and gains of the firm are distributed to the partners therein in proportion to their individual shares as specified in the instrument of partnership."

STATEMENT OF OBJECTS AND REASONS.

1. It has been held that draught animals and other live stock are not "plant" within the meaning of section 10 (2) (vi) of the Income-tax Act, 1922 (XI of 1922). But as horses, bullocks, elephants, etc., used for draught purposes are analogous to "plant", it is proposed in clause 2 (a) of the Bill to permit an assessee in computing his income from business to deduct as a business expense the cost of the live stock purchased for use in his business (not as stock in trade) to replace his stock so used.

2. The Calcutta High Court have held that road cess levied on coal mines is an admissible deduction from the assessable profits of the mine. The cess though nominally levied on immoveable property is actually calculated with reference to the annual profits of the mines. It is, therefore, a tax on profits and generally speaking anything that is of the nature of a tax on profits is not allowed as a deduction in assessing income-tax. Moreover the Central Government have always contended that provincial or local taxes on profits should not take precedence of Central taxes on the same profits and, if this principle is sacrificed, serious loss to Central revenues may result. Clause 2 (b) of the Bill makes it clear that an assessee is not entitled to deduct, in computing income, any sums paid to a local authority in respect of any tax (cess, rate, etc.) assessed on the basis of profits even though it may be nominally imposed on immoveable property.

3. The Act is silent as to the correct procedure for the assessment in the year following the one in which partition is effected in a Hindu undivided family. Clause 4 of the Bill provides for assessment in such cases.

4. There are conflicting rulings pronounced by the Bombay and Allahabad High Courts as to how the assessment should be made in the year after there has been a change in the "constitution" of an assessee, where, for example, a firm has become a Company. While the Allahabad High Court have held that where a firm has become a Company, the assessment should be made as though the firm were still in existence at the time of assessment, the Bombay High Court have ruled that the assessment should be made as though the Company had been in existence when the profits that have to be taxed were earned. Clause 5 of the Bill follows the Allahabad High Court ruling and also extends to income-tax the principle of the proviso to section 56 under which where there has been a change in the personnel of firm, the partners of the firm at the time of assessment are assessed to super-tax on the profits of the firm in the previous year with reference to the shares that each then holds.

5. It is necessary to confer on the Assistant Commissioners of Income-tax and Commissioners of Income-tax the power to rectify mistakes in their appellate or review orders which they do not at present possess. Clause 6 of the Bill confers such powers.

6. Clause 7 of the Bill makes the law more definite in regard to the assessment of the profits of (1) export trade conducted by (a) residents and (b) agencies or branches in British India of non-residents and (2) import trade conducted by agencies or branches in British India of non-residents. Section 42 of the Act which deals with the assessment of non-residents is vague and this is neither satisfactory from the view of the Government nor fair to the tax-payer. Moreover conflicting decisions on this subject have been pronounced by the High Courts of Madras, Calcutta and Rangoon.

7. At present an Income-tax Officer has no power to impose a penalty of less than the maximum amount mentioned in section 46 of the Act. It is considered desirable to empower an Income-tax Officer to impose a penalty less than the maximum and to increase it successively up to the maximum should the default in payment of tax be persisted in by the assessee.

8. Following the British Income-tax law, it is proposed to withhold the grant of refunds under section 48 (small income relief) in respect of dividends of Companies and interest on Indian securities from non-residents who are not British subjects or subjects of Indian States, while refunds to non-resident British subjects or subjects of Indian States will be allowed and calculated not with reference as at present to the claimant's total income taxable in British India, but with reference to his total income wherever derived which would be taxable if it accrued, arose or was received in British India. To non-residents who are not British subjects except subjects of Indian States there seems to be no reason why India should be more generous than the United Kingdom. As the law at present stands, large sums are refunded to non-resident share-holders many of whom may be in receipt of considerable income in other countries and the non-resident therefore enjoys an unfair advantage over residents in British India. Clause 9 of the Bill gives effect to the above proposal.

9. At present many bogus partnership deeds are produced for registration before the Income tax Officers under section 2 (14) of the Act even when the accounts are incomplete and show no division of profits amongst the partners. It appears, therefore, desirable to provide that a firm should not be registered unless it not merely files a deed of partnership specifying the partners' shares, but also actually divides the profits in accordance with those shares. Clause 11 of the Bill gives effect to the proposal.

BASIL P. BLACKETT.

The 30th November, 1926.

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, FEBRUARY, 10, 1927.

PART VI.

***Bills Introduced in the Council of State and Legislative Assembly,
Reports of Select Committees presented to the Council and
Assembly, and Bills published under Rule 18 of the Indian
Legislative Rules.***

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY.]

*A Bill to establish a gold standard currency for British
India and constitute a Reserve Bank of India.*

WHEREAS it is expedient to provide for the establishment of a gold standard currency for British India; to constitute a Reserve Bank of India to control the working of that standard and regulate the issue of bank notes and the keeping of reserves with a view to securing stability in the monetary system of British India; and generally to make provisions for matters incidental thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Gold Standard and Reserve Bank of India Act, 1927.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date or dates, not later than the 1st day of January, 1929, as the Governor General in Council may, by notification in the Gazette of India, appoint.

(4) Chapter III shall be in force for a period of twenty-five years and its operation may thereafter be extended for such further period or periods as the Governor General in Council may, by notification in the Gazette of India, direct.

Short title,
extent,
commencement
and duration.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "the Bank" means the Reserve Bank of India constituted by this Act;
- (b) "the Banking Department" means and includes all departments of the Bank other than the Issue Department;
- (c) "bank rate" means the rate published by the Bank under section 44;
- (d) "the Board" means the Board of Directors constituted in accordance with section 9;
- (e) "bank note" means a promissory note payable to bearer on demand which is a legal tender throughout British India;
- (f) "general meeting" means a meeting of the registered shareholders of the Bank;
- (g) "gold standard country" means any country, other than British India, from which any person is at liberty to export gold and in which any person may obtain gold on demand from the principal currency authority on payment of the equivalent thereof, as prescribed by law, in legal tender currency;
- (h) "Government of India debt" means the registered public debt and securities of the Governor General in Council;
- (i) "Issue Department" means that department of the Bank which is charged by section 20 with the conduct and management of the note issue;
- (j) "the reserve" means the assets of the Issue Department as specified in section 28;
- (k) "the Reserve Fund" means the Reserve Fund referred to in section 43; and
- (l) "rupee coin" means silver rupees which are legal tender under the provisions of the Indian Coinage Act, 1906.

III of 1906

CHAPTER II.

INCORPORATION, SHARE CAPITAL, MANAGEMENT AND BUSINESS.

Establishment and incorporation of the Reserve Bank of India.

Establishment and incorporation of Reserve Bank.

3. (1) A Bank to be called the Reserve Bank of India shall be constituted for the purpose of taking over the management of the currency from the Governor General in Council and of carrying on the business of banking in accordance with the provisions of this Act. Report para. 92.

(2) The Bank shall be a body corporate by the name of the Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued.

Share Capital.

Share Capital.

4. (1) The original share capital of the Bank shall be fifty million rupees divided into shares of five hundred rupees each, which shall be fully paid up. Report para. 91.

(2) Of the original share capital of the Bank the Imperial Bank of India shall be given the option of subscribing three-tenths and the remainder, together with any shares not taken up by the Imperial Bank of India under this option, shall be offered for public subscription.

(3) If the full amount of the share capital is not so subscribed, the Governor General in Council shall take up the remainder of the shares at par, and shall subsequently dispose of the same by sale to the public within three years.

Increase and reduction of share capital.

5. (1) The share capital of the Bank may be increased by the Board with the previous sanction of the Governor General in Council. Report para. 101.

(2) Every such increase shall be fully paid up, and the price at which such further shares may be issued shall be fixed by the Board with the like sanction.

(3) The Board may determine the manner in which any increase of capital shall be effected.

(4) The share capital of the Bank may be reduced by the Board, with the previous sanction of the Governor General in Council to such extent and in such manner as may be determined by the Bank in general meeting.

Head Office, Branches and Agencies.

Branches and agencies.

6. The Head Office of the Bank shall be established in Bombay, and the Bank shall have branches in Calcutta, Madras and London and may establish branches or agencies in any other places, whether in India or elsewhere. Report para. 97.

Management of the Bank.

Management.

7. The general superintendence of the affairs and business of the Bank shall be entrusted to a Board of Directors which may exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Act expressly directed or required to be done by the Bank in general meeting. Report paras. 93 and 94.

Certain persons disqualified for directorships.

8. Save as expressly provided in this Act, no person may be a Director who is an officer of Government or a member of the Indian or a local Legislature or is a director, officer or employee of any other bank. Report paras. 95 and 96.

Composition of Board.

9. (1) The Board shall consist of the following Directors, namely:— Report para. 94.

(a) a Governor and a Deputy Governor, who shall be appointed by the Governor General in Council for a period of five years and shall devote their whole time to the affairs of the Bank and shall receive such salaries and allowances respectively as may be determined by the Board;

(b) nine Directors elected by the shareholders, each of whom shall be the registered holder in his own right of not less than twenty unincumbered shares of the Bank, and of whom two shall be elected to represent business interests in Calcutta, two to represent business interests in Bombay, one to represent business interests in Madras, and two to represent business interests in British India exclusive of Calcutta, Bombay and Madras;

(c) three Directors nominated by the Governor General in Council to represent the interests of commerce, industry and agriculture, respectively; and

(d) an officer of Government appointed by the Governor General in Council.

(2) The Directors nominated by the Governor General in Council under clause (c) of sub-section (1) shall hold office for such terms respectively, not exceeding three years in any case, as he may direct at the time of nomination, but any such Director whose term of office has expired may be re-nominated.

(3) The Director appointed under clause (d) of sub-section (1) may attend any meeting of the Board and take part in its deliberations, but shall not be entitled to vote on any question arising at any such meeting.

(4) Of the nine Directors elected under clause (b) of sub-section (1), three shall retire annually by rotation but shall be eligible for re-election; the order of the retirement of the nine Directors first elected shall be determined by lot.

(5) Any casual vacancy in the office of a Director elected under clause (b) of sub-section (1) shall be filled by the Board, but all such appointments shall be subject to confirmation at the next general meeting. A person appointed to fill a casual vacancy shall hold office for the unexpired portion of the term of office of his predecessor.

(6) For the purposes of clause (b) of sub-section (1), a person shall not be deemed to represent business interests in any place unless he is a director of a company, registered under the Indian Companies Act, 1913, of which the registered office is situated in that place. VII of 1913.

Removal of
Governor, Deputy
Governor or
Director.

10. The Governor or Deputy Governor or any Director nominated or appointed under clause (c) of sub-section (1) of section 9 may be removed from office by the Governor General in Council before the expiration of his period of office, if a resolution is passed in this behalf by the Board by a majority consisting of not less than nine Directors, and any Director elected under clause (b) of that sub-section or appointed by the Board under sub-section (5) of section 9 may be so removed by special resolution passed at a general meeting by a majority consisting of not less than one-half of the total number of the votes held by the shareholders.

Meetings of Board.

11. Meetings of the Board shall be convened once in each month by the Governor. They shall ordinarily be held in Bombay, but a meeting of the Board shall be held in Calcutta at least once in every four months. Report para. 97.

General meetings.

12. (1) A general meeting (hereinafter in this Act referred to as the annual general meeting) shall be held annually at Bombay within six weeks from the date on which the annual accounts of the Bank are closed, and a general meeting may be convened by the Board at any other time.

(2) At a general meeting every shareholder shall have one vote for every four shares of which he has been a registered holder for not less than six months or ten votes, whichever number is less, and no shareholder shall be entitled to tender, whether personally or as a proxy, more than ten votes in all. Report para. 98.

Temporary Provision.

Temporary
provision for
formation of the
first Board.

13. Notwithstanding anything contained in section 9—

(a) the salaries and allowances of the first Governor and Deputy Governor shall be such as may be determined by the Governor General in Council and

(b) the Directors referred to in clause (b) of sub-section (1) of that section shall, for the purpose of the constitution of the first Board, be nominated by the Governor General in Council for a term of one year only and shall thereafter be elected as provided in that sub-section.

Business of the Bank.

Business which
the Bank may
transact.

14. The Bank shall be authorised to carry on and transact the several kinds of business hereinafter specified, namely :—

Report para
163.

- (1) the accepting of money on deposit without interest from, and the collection of money for, the Secretary of State in Council, the Governor General in Council, Local Governments, banks and other persons ;
- (2) (a) the purchase, sale and rediscount of bills of exchange and promissory notes, payable in India and arising out of *bonâ fide* commercial or trade transactions, bearing two or more good signatures, one of which shall be that of a bank, and maturing within ninety days from the date of such purchase or rediscount ;
(b) the purchase, sale and rediscount of bills of exchange and promissory notes, bearing two or more good signatures, one of which shall be that of a bank, drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of crops, and maturing within six months from the date of such purchase or rediscount : provided that the face value of bills or notes so purchased or rediscounted shall not at any time exceed one-fifth of the total face value of all bills, and notes purchased or rediscounted by the Bank ;
(c) the purchase, sale and rediscount of bills of exchange and promissory notes, bearing the signature of a bank, and issued or drawn for the purpose of holding or trading in Government securities, and maturing within ninety days from the date of such purchase or rediscount ;
- (3) the purchase from and sale to banks and persons approved by the Board, in amounts of not less than the equivalent of one hundred thousand rupees, of the currencies of gold standard countries, and of bills of exchange (including treasury bills) drawn in or on any place in a gold standard country, and maturing within ninety days from the date of such purchase ; and the keeping of balances with banks in such countries ;
- (4) the making of loans and advances for fixed periods not exceeding ninety days against the security of—
 - (a) stocks, funds and securities (other than immoveable property) in which a trustee is authorised to invest trust money by any Act of Parliament or by any Act of the Governor General in Council or the Indian Legislature ;
 - (b) gold coin and bullion or documents of title to the same ;
 - (c) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Bank : provided that loans and advances against such securities as are referred to in sub-clause (b) of clause (2) shall not exceed one-fifth of the total loans and advances made by the Bank ;
 - (d) such bills of exchange as are eligible for purchase by the Bank under clause (3) ;

- (e) promissory notes of any bank mentioned in the First Schedule, supported by documents giving title to goods which have been transferred, assigned or hypothecated to any such bank as security for a cash credit granted for *bonâ fide* commercial or trade transactions, or for the purpose of financing seasonal agricultural operations or the marketing of crops: provided that no loan or advance shall be made on the security of any promissory note such as is referred to in this sub-clause after the expiry of five years from the date on which this section comes into force;
- (5) the making of advances to the Governor General in Council repayable in each case not later than three months after the close of the financial year in respect of which the advance has been made;
- (6) the issue of demand drafts and the making, issue and circulation of bank post bills made payable on its own branches;
- (7) the purchase and sale of securities, maturing within five years from the date of such purchase, of the Government of any gold standard country;
- (8) the purchase and sale of securities of the Government of India of any maturity for the purpose of holding the same in the Reserve or for the purpose of the investment of the staff or superannuation funds;
- (9) the purchase and sale of securities of the Government of India of any maturity or of securities of a Local Government maturing within five years from the date of their purchase, for the purpose of investment of the share capital of the Bank or of the Reserve Fund;
- (10) the purchase and sale of securities of the Government of India or of Local Governments or of local authorities in British India for any purpose other than those referred to in clauses (8) and (9):

Provided that the total value of such securities so purchased shall not at any time exceed two-fifths of the liabilities for the time being of the Banking Department in respect of deposits, and of such total value an amount not exceeding one-fifth of such liabilities may be represented by securities maturing after six months and within ten years from the date of their purchase (of which, however, securities representing at least half that proportion shall be securities maturing within one year from the date of their purchase), and the remainder shall be represented by securities maturing within six months from the date of their purchase;

- (11) the custody of monies, securities and other articles of value, and the collection of the proceeds, whether principal, interests or dividends, of any such securities;
- (12) the sale and realisation of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction, or part satisfaction, of any of its claims;

(13) the acting as agent for the Secretary of State in Council, the Governor General in Council or any Local Government in the transaction of any of the following kinds of business, namely :—

(a) the purchase and sale of gold or silver ;

(b) the purchase, sale, transfer and custody of bills of exchange, securities or shares in any company ;

(c) the collection of the proceeds, whether principal, interest or dividends, of any securities or shares ;

(d) the remittance of such proceeds, at the risk of the principal, by bills of exchange payable either in India or elsewhere ;

(e) the management of public debt ;

(14) the purchase and sale of gold coin and bullion ;

(15) the opening of an account with, and the acting as agent or correspondent of, any other bank ;

(16) the making and issue of bank notes subject to the provisions of this Act ; and

(17) generally, the doing of all such matters and things as may be incidental or subsidiary to the transaction of the various kinds of business hereinbefore specified.

Power of direct discount.

15. After such date as the Governor General in Council may fix in this behalf, the Bank may, notwithstanding any limitation contained in sub-clauses (a) and (b) of clause (2) of section 14, purchase, sell or discount any bills of exchange or promissory notes arising out of *bona fide* commercial or trade transactions, bearing two or more good signatures and maturing within ninety days from the date of such purchase or discount. Report para 102.

Business which the Bank may not transact.

16. Save as otherwise provided in sections 14 and 15, the Bank may not— Report para 163.

(1) engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking, except such interest as it may in any way acquire in the course of the satisfaction of any of its claims : provided that all such interests shall be disposed of at the earliest possible moment ;

(2) purchase its own shares or the shares of any other bank or of any company, or grant loans upon the security of any such shares ;

(3) advance money on mortgage of, or otherwise on the security of, immoveable property or documents of title relating thereto, or become the owner of immoveable property, except so far as is necessary for its own business premises and residences for its officers and servants ;

(4) make unsecured loans or advances ;

(5) draw or accept bills payable otherwise than on demand ;

(6) allow interest on deposits.

CHAPTER III.

CENTRAL BANKING FUNCTIONS.

Relations of the Bank with the Secretary of State in Council and the Governor General in Council.

Obligation of Bank to transact Government business.

17. The Bank shall undertake to accept monies for account of the Secretary of State in Council and the Governor General in Council and to make payments up to the amount standing to the credit of their accounts respectively, and to carry out their exchange, remittance and other banking operations, including the management of the Government of India Debt, on such conditions as may be agreed upon. Report para. 140.

Bank to have the right to transact Government business.

18. (1) The Governor General in Council shall undertake to entrust the Bank, on such conditions as may be agreed upon, with all his money, remittance, exchange and banking transactions in India and elsewhere and, in particular, to deposit free of interest all his cash balances with the Bank: Report para. 140.

Provided that nothing in this sub-section shall prevent the Governor General in Council from carrying on money transactions at Government treasuries or sub-treasuries at places where the bank has no branches or agencies, and the Governor General in Council may hold at such treasuries and sub-treasuries such balances as he may require.

(2) The Governor General in Council shall undertake to entrust the Bank, on such conditions as may be agreed upon, with the management of the Government of India Debt and with the issue of any new loans.

Note Issue.

Right to issue bank notes.

19. (1) The Bank shall have the sole right to issue bank notes in British India, and may, for a period of one year from the date on which this Chapter comes into force, issue currency notes of the Government of India supplied to it by the Governor General in Council, and the provisions of this Act applicable to bank notes shall, unless a contrary intention appears, apply to all currency notes of the Government of India issued either by the Governor General in Council or by the Bank in like manner as if such currency notes were bank notes, and references in this Act to bank notes shall be construed accordingly. Report para. 141.

(2) On and from the aforesaid date the Governor General in Council shall not issue any currency notes or any other kind of paper money.

Issue Department.

20. (1) The issue of bank notes shall be conducted by the Bank in an Issue Department which shall be separated and kept wholly distinct from the Banking Department, and the assets of the Issue Department shall not be subject to any liability other than the liabilities of the Issue Department as hereinafter defined in section 29. Report para. 143.

(2) The Issue Department shall not issue bank notes to the Banking Department or to any other person except in exchange for other bank notes or for such coin, bullion or securities as are permitted by this Act to form part of the Reserve.

Denominations of notes.

21. Bank notes shall be of the denominational values of 5, 10, 50, 100, 500, 1,000 and 10,000 rupees, and of such other denominational values, if any, as may be directed by the Governor General in Council. Report para. 142.

Form of bank notes.

22. The design, form and material of bank notes shall be such as may be approved by the Governor General in Council. Report para. 145.

Legal tender
character of notes.

23. (1) Subject to the provisions of sub-section (2), every bank note shall be legal tender at any place in British India in payment or on account for the amount expressed therein, and shall be guaranteed by the Governor General in Council. Report para. 149.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender save at an office or agency of the bank.

Re-issue of notes

24. The Bank shall not re-issue bank notes which are torn, defaced or excessively soiled, and any bank note re-issued from any office of the Bank shall be sterilized and disinfected before re-issue. Report para. 155.

Recovery on notes
lost, stolen,
mutilated or
imperfect.

25. Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall of right be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect bank note :

Provided that the Bank may, with the previous sanction of the Governor General in Council, prescribe the circumstances in and the conditions and limitations subject to which the value of such bank notes may be refunded as of grace.

Prohibition of issue of private bills or notes payable to bearer on demand.

Issue of demand
bills and notes.

26. No person in British India other than the Bank or, as expressly authorised by this Act, the Governor General in Council shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person :

Provided that cheques or drafts payable to bearer on demand or otherwise may be drawn on bankers, shroffs or agents by their customers or constituents in respect of deposits of money in the hands of those bankers, shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

Penalty.

27. (1) Any person contravening the provisions of section 26 shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

(2) No prosecution under this section shall be instituted except on complaint made by the Bank.

Assets of the Issue Department.

The Reserve.

28. (1) The Reserve shall consist of gold coin, gold bullion, gold securities, rupee coin and rupee securities to such aggregate amount as is not less than the total of the liabilities of the Issue Department as hereinafter defined. Report para. 145.

(2) Of the total amount of the Reserve not less than two-fifths shall consist of gold coin, gold bullion or gold securities :

Provided that the amount of gold coin and gold bullion shall not at any time be less than three hundred million rupees in value and shall not be less than one-fifth of the total amount of the Reserve after the end of the fifth year, or than one-quarter of the total amount of the Reserve after the end of the tenth year, from the date on which this Chapter comes into force.

(3) The remainder of the Reserve shall be held in rupee coin, Government of India rupee securities of any maturity and such bills of exchange and promissory notes drawn and payable in British India as are eligible for purchase by the Bank under sub-clause (a) or sub-clause (b) of clause (2) of section 14 or under section 15 :

Provided that the amount held in rupee coin shall not exceed—

- (a) during the three years after the date on which this Chapter comes into force, seven hundred million rupees,
- (b) during the next three years, five hundred million rupees,
- (c) during the next four years, three hundred and fifty million rupees, and
- (d) two hundred and fifty million rupees thereafter,

or one-tenth of the total amount of the Reserve, whichever amount is greater :

Provided further that the amount held in Government of India rupee securities shall not at any time exceed one-fourth of the total amount of the Reserve or five hundred million rupees, whichever amount is less.

(4) For the purposes of this section, gold coin and gold bullion shall be valued at 8.17512 grains of fine gold per rupee, rupee coin shall be valued at its face value, and gold and rupee securities shall be valued at the market rate for the time being obtaining.

(5) Of the gold coin and gold bullion held in the Reserve not less than one-half shall be held in British India, and all gold coin and gold bullion forming part of the Reserve shall be held in the custody of the Bank or its agencies :

Provided that gold belonging to the Bank which is in any other bank or in any mint or in transit may be reckoned as part of the Reserve.

(6) For the purposes of this section, the gold securities which may be held as part of the Reserve shall be securities of any of the following kinds payable in the currency of any gold standard country, namely :—

- (a) balances at the credit of the Issue Department with a bank which is the principal currency authority under the law for the time being in force of such country ;
- (b) bills of exchange bearing two or more good signatures and drawn on and payable at a place in any such country and having a maturity not exceeding ninety days ;
- (c) securities of the Government of any such country maturing within five years :

Provided that, for a period of two years from the date on which this Chapter comes into force, any of such securities may be securities maturing after five years, and the Bank may at any time before the expiry of that period dispose of such securities notwithstanding anything contained in section 14.

Liabilities of the Issue Department.

Liabilities.

29. (1) The liabilities of the Issue Department shall be an amount equal to the total of the amount of the currency notes of the Government of India and bank notes for the time being in circulation and of an initial amount of five hundred million rupees for the purpose of providing for rupee redemption, which last-mentioned amount shall be reduced by one rupee for every five rupees delivered to the Governor General in Council under the provisions of section 31, and shall be increased by one rupee for every five rupees received from him under section 32.

Report para.
146.

(2) For the purposes of this section, any currency note of the Government of India or bank note which has not been presented for payment within forty years from the 1st day of April following the date of its issue shall be deemed not to be in circulation, and the value thereof shall, notwithstanding anything contained in sub-section (2) of section 20, be paid by the Issue Department to the Governor General in Council or the Banking Department, as the case may be; but any such note, if subsequently presented for payment, shall be paid by the Banking Department, and any such payment in the case of a currency note of the Government of India shall be debited to the Governor General in Council.

Initial Assets and Liabilities.

Transfer of assets and liabilities to the Bank.

30. On the date on which this Chapter comes into force, the Issue Department shall take over from the Governor General in Council the liability for all the currency notes of the Government of India for the time being in circulation, and the Governor General in Council shall transfer to the Issue Department gold coin, gold bullion, gold securities, rupee coin and rupee securities to such aggregate amount as is equal to the total of the amount of the liability so transferred and of a sum of five hundred million rupees. The coin, bullion and securities shall be transferred in such proportion as to comply with the requirements of section 28:

Report para. 114.

Provided that the total amount of the gold coin, gold bullion and gold securities so transferred shall not be less than one-half of the whole amount transferred.

Supply of coin, and of different forms of legal tender currency.

Delivery to Government of surplus rupee coin.

31. The Bank may deliver to the Governor General in Council all rupee coin held by it in excess of the amount which the Issue Department is permitted to hold as part of the Reserve under section 28, against payment of four rupees in bank notes, gold or gold securities for every five rupees so delivered.

Report para. 147.

Purchase of rupee coin.

32. When the amount of rupee coin for the time being held in the Reserve does not exceed two hundred and fifty millions or one-tenth of the total amount of the Reserve, whichever is greater, the Bank may demand delivery of rupee coin from the Governor General in Council, on payment of four rupees in bank notes, gold or gold securities for every five rupees so delivered.

Report para. 147.

Obligations of Government and Bank in respect of rupee coin.

33. The Governor General in Council shall undertake not to re-issue any rupee coin delivered under section 31 nor to put into circulation any new rupees, except through the Bank and on the Bank's demand; and the Bank shall undertake not to dispose of rupee coin otherwise than for the purposes of circulation or by delivery to the Governor General in Council under that section.

Report para. 148.

Obligation to supply different forms of currency.

34. The Bank shall issue rupee coin on demand in exchange for currency notes of the Government of India, and shall issue currency notes or bank notes on demand in exchange for rupee coin, and it shall, in exchange for currency notes or bank notes of five rupees or upwards, supply currency notes or bank notes of lower value or rupees or other coin which are legal tender under the Indian Coinage Act, 1906, in such quantities as may, in the opinion of the Bank, be required for circulation; and the Governor General in Council shall, subject to the provisions of section 32, supply such rupees or other coins to the Bank on demand. If the Governor General in Council at any time fails to discharge this duty, the Bank shall be released from its obligation to supply such coins to the public.

Report para. 152.

III of 1906.

Obligation to sell gold.

Sale of gold.

35. (1) The provisions of this section shall have effect from such date, not later than the 1st day of January, 1931, as the Governor General in Council may, by notification in the Gazette of India, appoint. Report para. 150.

(2) The Bank shall sell, to any person who makes a demand in that behalf at its office at Bombay, Calcutta and Madras and pays in legal tender currency the purchase price as determined under the provisions of this section, gold bullion for delivery, at the option of the purchaser, either in Bombay or at such place in a gold standard country as may be notified in this behalf by the Governor General in Council :

Provided that no person shall be entitled to demand an amount of gold bullion containing less than 1,065 tolas of fine gold.

(3) The price of gold bullion for delivery at the notified place shall be twenty-one rupees, three annas and ten pies per tola of fine gold with the addition of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to that place, including interest on its value during transit.

(4) The price of gold bullion for delivery in Bombay shall be twenty-one rupees, three annas and ten pies per tola of fine gold with an addition representing twice the normal cost per tola of transferring gold bullion in bulk from Bombay to the notified place, including interest on its value during transit :

Provided that no such addition shall be made when the rate at which the currency of the country in which the notified place is situate can be purchased in Bombay for immediate delivery at that place is such that the equivalent of the price at which the principal currency authority of that country is bound by law to give gold in exchange for currency is equal to or less than twenty-one rupees, three annas and ten pies per tola of fine gold after deduction of the normal cost per tola of transferring gold bullion in bulk from Bombay to the notified place, including interest on its value during transit.

(5) The Governor General in Council shall from time to time determine in accordance with the provisions of sub-sections (3) and (4) the prices at which the Bank shall sell gold bullion for delivery in Bombay and the notified place respectively, and shall notify the prices so determined in the Gazette of India. Such notification shall be conclusive as between the Bank and any other person as to the price which the Bank shall be entitled to charge in respect of any sale of gold bullion.

Interim provisions.

36. (1) The provisions of this section shall cease to have effect on the date appointed by the Governor General in Council under sub-section (1) of section 35. Report para. 166.

(2) The Bank shall sell, to any person who makes a demand in that behalf at its office at Bombay, Calcutta or Madras and pays the purchase price in legal tender currency, at a rate equivalent to twenty-one rupees, three annas and ten pies per tola of fine gold, the currency of such gold standard country as may be notified in this behalf by the Governor General in Council in the Gazette of India, for immediate delivery in that country :

Provided that no person shall be entitled to demand an amount of currency of less value than that of 1,065 tolas of fine gold.

(3) For the purpose of determining the equivalent rate applicable to the sale of currency under this section, twenty one rupees, three annas and ten pies shall be deemed to be equivalent to such sum in that currency as is required to purchase one tola of fine gold in that country at the rate at which the principal currency

authority of that country is bound by law to give gold in exchange for currency, after deduction therefrom of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to that country, including interest on its value during transit.

(4) The Governor General in Council shall from time to time determine the equivalent rate in accordance with the provisions of sub-section (3), and shall notify the rate so determined in the Gazette of India.

Obligation to buy gold.

Obligation of Bank to buy gold.

37. The Bank shall buy from any person who makes a demand in that behalf at its office in Bombay, Calcutta or Madras, gold bullion for delivery in Bombay at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold, if such gold is tendered in the form of bars containing not less than 1,065 tolas of fine gold :

Report para. 151.

Provided that the Bank shall be entitled to require such gold bullion to be melted and assayed, by persons approved by the Bank, at the expense of the persons tendering the bullion.

Suspension of Reserve requirements and tax on note issue.

Suspension of Reserve requirements.

38. (1) The Bank may, with the previous sanction of the Governor General in Council, for periods not exceeding thirty days in the first instance, which may, with the like sanction, be extended from time to time by periods not exceeding fifteen days, hold in the Reserve gold coin, gold bullion or gold securities of less aggregate amount than that required by sub-section (2) of section 28 and, whilst the holding is so reduced, the proviso to that sub-section shall cease to be operative.

Report para. 153.

(2) In respect of any period during which the holding of gold coin, gold bullion and gold securities is reduced under sub-section (1), the Bank shall pay to the Governor General in Council a tax upon the amount by which such holding is reduced below the minimum prescribed by sub-section (2) of section 28 ; such tax shall be payable at the bank rate for the time being in force, with an addition of one per cent. per annum when such holding exceeds thirty-two and a half per cent. of the total amount of the Reserve and of a further one and a half per cent. per annum in respect of every further decrease of two and a half per cent. or part of such decrease :

Provided that the tax shall not in any event be payable at a rate less than six per cent. per annum.

Bank exempt from further note-tax.

39. Save as provided by section 38, the Bank shall not be liable to the payment of any stamp duty or other duty or tax in respect of bank notes issued by it.

Report para. 154.

Duration of the privilege of note issue.

Powers of Government, in respect of note issue and assets of the Bank in certain circumstances.

40. If at any time the Bank fails to comply with any provision of this Chapter or with any other provision of this Act, the Governor General in Council may, by notification in the Gazette of India, declare that the Bank has forfeited the right of note issue, and shall thereupon take over the liabilities of the Issue Department together with such portion of the assets of the Bank as is required to meet such liabilities, and thereafter the business of the Issue Department shall be carried on in the manner prescribed by this Act by such agency as the Governor General in Council may determine.

Report para. 149.

Cash reserves to be maintained by banks.

Cash reserves of certain banks to be kept with the Bank.

41. (1) Every bank mentioned in the First Schedule which transacts business in India shall maintain a minimum balance with the Bank equal to seven and one-half per cent. of the demand liabilities and two and one-half per cent. of the time liabilities of such bank to the public in India. Report para 161.

(2) Every such bank shall send to the Governor General in Council and to the Bank a monthly return signed by two responsible officer of such bank, showing—

- (a) the amounts of its demand and time liabilities respectively to the public in India,
- (b) the total amount held in India in currency notes of the Government of India and bank notes,
- (c) the amounts held in India in rupee coin and subsidiary coin respectively,
- (d) the amounts of advances made and of bills discounted in India respectively, and
- (e) the balance held at the Bank.

at the close of the month to which the return relates.

(3) Every such return shall be sent to not later than fourteen days after the close of the month to which it relates and shall state whether the bank has during that month maintained with the Reserve Bank the minimum balance required by sub-section (1).

(4) A summary of the monthly return of each bank shall be published in the Gazette of India.

(5) Any bank failing to comply with the provisions of sub-section (2) or sub-section (3) shall be liable, on application made by or on behalf of the Governor General in Council to the principal Civil Court having jurisdiction in a place where an office of the bank is situated, to a penalty of one hundred rupees for each day during which the failure continues.

(6) When it appears from any such monthly return or from a report of the Board that any bank has failed to maintain the minimum balance required by sub-section (1), the Governor General in Council may call for such further return, or make such inspection of the books and accounts of the bank in default, as may be necessary to ascertain the amount of the deficiency and the period during which it has continued; and the bank so in default shall be liable, on application made by or on behalf of the Governor General in Council to the principal Civil Court having jurisdiction in a place where an office of the bank is situated, to a penalty at a rate per annum which shall be three per cent. above the bank rate on the amount of the deficiency for each day during which the default has continued, and shall be raised to five per cent. above the bank rate after the first seven days of the deficiency.

(7) The Governor General in Council may, by notification in the Gazette of India, make such additions to or other alterations in the First Schedule as he thinks fit.

Agreement with the Imperial Bank of India.

Agreement with the Imperial Bank.

42. The Bank shall enter into an agreement with the Imperial Bank of India which shall be subject to the approval of the Governor General in Council and shall be expressed to come into force on the date on which this Chapter comes into force and to remain in force for twenty-five years and shall further contain the provisions set forth in the Second Schedule,

CHAPTER IV.

GENERAL PROVISIONS.

*Reserve fund and allocation of surplus.*Allocation of
surplus.

43. After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds, and such other contingencies as are usually provided for by bankers, and after payment out of the net annual profits of the Bank of a dividend at the rate of five per cent. per annum on the capital, one-half of the surplus shall be allocated to a Reserve Fund, until such Reserve Fund is equal to one-half of the capital, and the remaining one-half shall be paid to the Governor General in Council. Thereafter, until the Reserve Fund is equal to the capital, one-twentieth of the surplus or three per cent. on the capital, whichever is less, shall be paid to the shareholders, one-tenth of the surplus shall be allocated to the Reserve Fund, and the balance shall be paid to the Governor General in Council. When the Reserve Fund is equal to the capital, one-twentieth of the surplus or three per cent. on the capital, whichever is less, shall be paid to the shareholders and the balance shall be paid to the Governor General in Council :

Report para.
100.

Provided that, until the Reserve Fund is equal to the capital, five million rupees of the surplus, or the whole surplus if it is less than that amount, shall be allocated to the Reserve Fund.

*Bank rate.*Publication of Bank
rate.

44. The Bank shall make public from time to time the minimum rate at which it is prepared to buy or rediscount bills of exchange or other commercial paper eligible for purchase under this Act.

Report para.
158.*Audit.*

Auditors.

45. (1) Not less than two auditors shall be elected and their remuneration fixed at the annual general meeting. The auditors may be shareholders, but no Director or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible for re-election on quitting office.

Report para.
156.

(2) The first auditors of the Bank may be appointed by the Board before the first annual general meeting and, if so appointed, shall hold office only until that meeting. All auditors elected under this section shall severally be and continue to act as auditors until the first annual general meeting after their respective elections ;

Provided that any casual vacancy in the office of any auditor elected under this section may be filled by the Board.

Appointment of
special auditors
by Government.

46. Without prejudice to anything contained in section 45, the Governor General in Council may at any time appoint such auditors as he thinks fit to examine and report upon the accounts of the Bank.

Report para.
156.Powers and
duties of auditors.

47. (1) Every auditor shall be supplied with a copy of the annual balance-sheet, and it shall be his duty to examine the same, together with the accounts and vouchers relating thereto ; and every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it or at the expense of the Governor General in Council if appointed by him, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director or officer of the Bank.

Report para.
156.

(2) The auditors shall make a report to the shareholders or to the Governor General in Council, as the case may be, upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the bank's affairs, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read together with the report of the Board at the annual general meeting.

Returns.

Returns.

48. (1) The Bank shall prepare and transmit to the Governor General in Council a weekly account of the Issue Department and of the Banking Department in the Form set out in the Third Schedule or in such other Form as the Governor General in Council may, by notification in the Gazette of India, prescribe. The Governor General in Council shall cause these accounts to be published weekly in the Gazette of India.

Report para. 157.

(2) The Bank shall also within two months from the date on which the annual accounts of the Bank are closed, transmit to the Governor General in Council a copy of the annual accounts signed by the Governor, Deputy Governor and the Chief Accounting Officer of the Bank, and certified by the auditors, and the Governor General in Council shall cause such accounts to be published in the Gazette of India.

(3) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the Governor General in Council a statement showing the name, address and occupation of, and the number of shares held by, each shareholder of the Bank.

Liquidation.

Provisions regarding application of Act VII of 1913 and liquidation.

49. (1) Nothing in the Indian Companies Act, 1913, shall apply to the Bank, and the Bank shall not be placed in voluntary or compulsory liquidation save with the sanction of the Governor General in Council and in such manner as he may direct.

VII of 1913.

(2) In such event the Reserve Fund and surplus assets, if any, of the Bank shall be divided between the Governor General in Council and the shareholders in the proportion of sixty per cent. and forty per cent. respectively.

Regulations.

Power of the Board to make regulations.

50. (1) The Board may, with the previous sanction of the Governor General in Council, make regulations consistent with this Act to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Act.

Report para. 164.

(2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely :—

- (a) the maintenance of the share register, the manner in which and the conditions subject to which shares may be held and transferred, and, generally all matters relating to the rights and duties of shareholders ;
- (b) the manner in which general meetings shall be convened and the procedure to be followed thereat ;
- (c) the manner in which elections of Directors shall be held ;
- (d) the manner in which the business of the Board shall be transacted, and the procedure to be followed at meetings thereof ;

- (e) the establishment of Local Boards and the delegation to such Boards of powers and functions ;
- (f) the constitution and management of staff and superannuation funds for the officers and servants of the Bank ,
- (g) the manner and form in which contracts binding on the Bank may be executed ;
- (h) the provision of an official seal of the Bank and the manner and effect of its use ;
- (i) the manner and form in which the balance sheet of the Bank shall be drawn up, and in which the accounts shall be maintained ;
- (j) the manner in which notices may be served on behalf of the Bank upon shareholders or other persons ;
- (k) the circumstances in which and the conditions and limitations subject to which the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note may be refunded ; and
- (l) generally for the efficient conduct of the business of the Bank.

Amendments and repeal.

Amendment of Act III of 1906.

51. In the Indian Coinage Act, 1906,—

Report para. 66. III of 1906

- (a) for section 11 the following section shall be substituted, namely :—

Demonetisation of sovereign and half-sovereign.

“11. Gold coins whether coined at His Majesty's Royal Mint in England or at any mint established in pursuance of a proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall not be legal tender in British India in payment or on account, but such coins shall be received by the Reserve Bank of India at its offices and agencies in India at the bullion value of such coins calculated at the rate of 8·47512 grains troy of fine gold per rupee ;” and

(b) the word “and” at the end of clause (d) of sub-section (2) of section 21 and clause (e) of that sub-section shall be omitted.

Repeal of Act X of 1923.

52. The Indian Paper Currency Act, 1923, is hereby repealed. X of 1923

THE FIRST SCHEDULE.

[See sections 14 (4) (e) and 41.]

SCHEDULE OF BANKS.

1. Imperial Bank of India.
2. Allahabad Bank.
3. Bank of Baroda.
4. Bank of India.
5. Central Bank of India.
6. Indian Bank.
7. Punjab National Bank.
8. Chartered Bank of India, Australia and China.
9. Eastern Bank.

10. Grindlay and Company.
11. Hongkong and Shanghai Banking Corporation.
12. Imperial Bank of Persia.
13. Lloyds Bank.
14. Mercantile Bank of India.
15. National Bank of India.
16. P. and O. Banking Corporation.
17. Thomas Cook & Son.
18. American Express Company Incorporated.
19. National City Bank of New York.
20. Banco National Ultramarino.
21. Comptoir National d'Escompte de Paris.
22. Nederlandsche Handel-Maatschappij.
23. Nederlandsch Indische Handelsbank.
24. Sumitomo Bank.
25. Bank of Taiwan.
26. Yokohama Specie Bank.

THE SECOND SCHEDULE.

[See section 42]

Provisions to be contained in the agreement between the Reserve Bank of India and the Imperial Bank of India.

1. The Imperial Bank of India shall be the sole agent of the Reserve Bank of India at all places in British India where there is a branch of the Imperial Bank of India and no branch of the Reserve Bank of India.
2. In consideration of the performance by the Imperial Bank of India on behalf of the Reserve Bank of India of the functions which the Imperial Bank of India was performing on behalf of the Governor General in Council at the places referred to in clause 1 before the coming into force of the Reserve Bank of India Act, 1927, the Reserve Bank of India shall pay to the Imperial Bank of India a commission calculated on the total of the receipts and disbursements dealt with annually on account of Government by the Imperial Bank of India on behalf of the Reserve Bank of India. Such commission shall be one-sixteenth of one per cent. on the first 250 crores of such total and one-thirty-second of one per cent. on the remainder.
3. Subject to the condition that the Imperial Bank of India shall keep open branches not less in number than those existing at the time of the coming into force of the Reserve Bank of India Act, 1927, the Reserve Bank of India shall allow the following balances to the Imperial Bank of India at the interest rates hereinafter specified, namely :—
 - (a) during the first five years—3 crores free of interest ;
 - (b) during the second five years—2 crores free of interest and, at the option of the Imperial Bank of India, an amount not exceeding 1 crore at 2 per cent. per annum ;
 - (c) during the third five years—1 crore free of interest and, at the option of the Imperial Bank of India, an amount not exceeding 2 crores at 2 per cent. per annum ; and
 - (d) during the last 10 years—at the option of the Imperial Bank of India, an amount not exceeding 3 crores at 2 per cent. per annum.
4. The Imperial Bank of India shall not without the approval of the Reserve Bank of India open any branch in substitution for a branch existing at the time this agreement comes into force.
5. For each new branch opened by the Imperial Bank of India with the approval of the Reserve Bank of India in addition to the branches already opened when this agreement comes into force the Imperial Bank of India shall be allowed the following balances free of interest for each branch so opened, namely :—
 - (a) during the first five years—3 lakhs, and
 - (b) during the second five years—2 lakhs.

THE THIRD SCHEDULE.

(See section 48.)

RESERVE BANK OF INDIA.

An Account pursuant to the Gold Standard and Reserve Bank of India Act, 1927, for
the week ending on the day of .

Issue Department.

<i>Liabilities.</i>		<i>Assets.</i>	
	Rs.		Rs.
Bank Notes held in the Banking Department		Rupee coin	...
Bank Notes in circulation		Government of India rupee securities	...
Total Bank Notes issued	...	Internal Bills of Exchange and other commercial paper	...
Government of India Notes in circulation	...	Gold securities	...
Rupee redemption	...	Gold coin or bullion	...
	_____		_____
	_____		_____

Ratio of gold and gold securities to liabilities, per cent. .

Dated the day of 19 .

Banking Department.

<i>Liabilities.</i>		<i>Assets.</i>	
	Rs.		Rs.
Capital paid up	...	Notes	...
Reserve Fund	...	Rupee coin	...
Deposits—		Subsidiary coin	...
(a) Government	...	Bills discounted—	
(b) Banks	...	(a) Internal	...
(c) Others	...	(b) External	...
Bills payable	...	(c) Government of India Treasury Bills	...
Other liabilities	...	Balances held abroad	...
		Loans and advances to the Government	...
		Other Loans and advances	...
		Investments	...
		Other Assets	...
	_____		_____
	_____		_____

Dated the day of 19 .

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give effect to the recommendations of the Royal Commission on Indian Currency and Finance for the establishment of a Gold Standard for India and for constituting a Reserve Bank of India to control the working of that Standard. The various clauses of the Bill are briefly explained below.

Clause 1.—It is proposed to give the Bank the sole right of note issue for a period of twenty-five years in the first instance subject to renewal as recommended in paragraph 141 of the Commission's report. The provision that the Act shall come into force not later than 1st January, 1929, is based upon the time-table recommended by the Commission in paragraph 165 of the report.

Clause 3.—The name, the Reserve Bank of India, is that suggested in paragraph 92 of the report.

Clause 4.—The Commission recommend that the capital of the Bank should be Rupees five crores fully paid up, and that the Imperial Bank's shareholders should be given the first opportunity of subscribing for the capital stock of the Bank as consideration for foregoing important privileges which the Imperial Bank now enjoys. A clear-cut division of functions between the Reserve Bank of India and the Imperial Bank of India is the essence of the proposal creating a Reserve Bank and, if avoidable, it is undesirable to give the shareholders of the Imperial Bank of India a preponderant voice in deciding the currency policy of the Reserve Bank. It is therefore proposed in this clause to give the Imperial Bank of India as an institution and not to its individual shareholders the option of subscribing thirty per cent. of the capital. It will be open to the Imperial Bank to distribute the allotment among its shareholders if it so desires. The Central Board of the Imperial Bank of India has expressed its willingness in principle, in view of the other terms proposed to be given to the Imperial Bank, to recommend this proposal for the acceptance of the shareholders.

It is necessary that the Government should be prepared to take up any unallotted shares, but it is not desirable that these should continue to be held permanently by them. It is, therefore, proposed that the Governor General in Council should dispose of any unallotted shares taken up by him within three years.

Clause 5.—This is based on paragraph 101 of the Commission's report. It is necessary to make provision for the contingency of a reduction of the share capital in regard to which the Commission have made no recommendation.

Clause 6.—The Head Office of the Bank will be located in Bombay as recommended by the Commission in paragraph 97 of the report.

Clause 8.—This gives effect to the recommendations in paragraphs 95 and 96 of the report.

Clause 9.—This is based on paragraph 94 of the Commission's report. The Commission recommend therein that the Reserve Bank should have Local Boards in Bombay, Madras and Calcutta, and that representatives from these Boards should constitute a majority on the Central Board. It is considered undesirable for various reasons to base the constitution of the Central Board on a system of Local Boards. If the Local Boards are dispensed with, it is necessary that shareholders as a body should elect those Directors who are not appointed by the Government.

As regards nominated Directors, it is considered desirable in order that all interests may be represented that the three Directors nominated by Government should represent Commerce, Industry and Agriculture, respectively. The term of office of nominated Directors is proposed by the Commission to be fixed at one year which is too short to conduce to efficient work. It is, therefore, proposed to extend it to three years.

Clause 10.—It is provided in this clause that the Governor, Deputy Governor or any nominated Director may be removed by the Governor General in Council if a resolution to that effect is passed by a majority of the Board consisting of not less than nine Directors, that is by a substantial majority of the Board.

The provision for the removal of elected Directors follows the lines of a similar provision in the Imperial Bank of India Act. It seems undesirable that elected Directors should be removable by a bare majority at a general meeting.

Clause 11.—As there may be no Local Board at Calcutta, it is desirable to provide that the Central Board shall meet in Calcutta at least once in every four months.

Clause 12.—This gives effect to the recommendations in paragraph 98 of the Commission's report.

Clause 13.—This is based upon similar provision in section 30 of the Imperial Bank of India Act. It is necessary to make special provision for the formation of the first Board.

Clauses 14 and 16.—These embody the proposals in Schedule II to the report defining the functions and capacities of the Bank.

The Commission have not provided for the Reserve Bank receiving non-interest-bearing deposits from private persons. It is considered that like most other Central Banks in the world the Reserve Bank of India should also be allowed to receive deposits from private persons provided no interest is paid.

The financing of industry and the movement of crops in India is carried on by cash credits and as provision recommended by the Commission stands it will be difficult for the Reserve Bank to assist other banks in providing necessary credit without some considerable changes in banking methods. It is, therefore, proposed in sub-clause (4) (e) that for a period of five years the Bank should be authorised to advance money against promissory notes of scheduled banks under certain conditions.

It is considered undesirable to limit the amount of securities held at any time in the Banking department to so low a figure as 25 per cent. of the liabilities as recommended by the Commission in clause 3 (d) of Schedule II to their report, as in view of the very fluctuating nature of deposits the limitation might force the sale of securities merely to bring the Bank within the provisions of its charter for a few days.

The Commission recommend in clause 7(a) of Schedule II to the report that the paid-up capital and reserve may be invested in securities of the Government of India having not more than five years to run. In view of the fact that the Government of India are now funding their short-term loans into long-term loans the limitation of maturity to five years might unduly restrict the power of the Bank to invest in such securities after a few years. It is, therefore, proposed to modify the provision so as to permit of investment in Government of India securities of any maturity.

Clause 15.—This gives effect to the recommendation in paragraph 102 of the report regarding operations in the open market.

Clauses 17 and 18.—These give effect to the recommendations in paragraph 140 of the report regarding the relations of the Bank with the Government.

Clause 19.—This gives effect to the recommendation in paragraph 141 of the report.

The Commission recommend that the right of note issue should be transferred to the Bank as soon as the Bank was in a position to issue its own notes. It is not desirable to postpone the early functioning of the Bank till it is able to arrange for the manufacture and issue of its own notes, and it is, therefore, proposed to allow the Bank to issue notes of the Government of India for a year from the date on which the Bank takes over the control of the currency.

Clause 20.—This gives effect to the recommendations in paragraph 143 of the report regarding the separation of the Banking and Issue Departments of the Bank.

Clause 21.—This gives effect to the recommendations in paragraph 142 of the report; freedom is retained to postpone the issue of one rupee notes for a time if such postponement appears desirable with reference to the size of the holding of silver rupees in the Reserve.

Clause 22.—This gives effect to the recommendations in paragraph 155 of the report regarding the form and material of Bank notes.

Clause 23.—This is based upon recommendation in paragraph 149 of the report that the notes of the Bank shall be legal tender for the payment of any amount and shall be guaranteed by the Government of India.

The Commission recommend in paragraph 141 of the report that not later than five years from the date of the Bank charter becoming operative the Government of India notes still outstanding should cease to be legal tender except at Government treasuries. By the end of five years very few Government of India notes will remain outstanding, and it is undesirable to take away the legal tender character of the note in the absence of any very definite advantage to be gained by so doing. It is, however, proposed to take power for the Governor General in Council and the Bank to call in notes of particular series, if necessity arises.

Clause 24.—This is based on paragraph 155 of the Commission's report regarding the re-issue of Bank notes.

Clause 25.—This is based upon a similar provision in the Indian Paper Currency Act, 1923, and is necessary to protect the Bank against civil action in respect of notes lost, stolen, mutilated or imperfect.

Clauses 26 and 27.—These are based upon a similar provision in the Indian Paper Currency Act, 1923.

Clause 28.—This gives effect to the recommendations in paragraph 145 of the Commission's report regarding the constitution of the Reserve.

Clause 29.—This gives effect to the recommendations in paragraph 146 of the Commission's report defining the liabilities of the Issue Department.

The provision in sub-clause (2) of this clause is similar to that in the proviso to sub-section (6) of section 18 of the Indian Paper Currency Act, 1923, although it differs in detail. Under the Indian Paper Currency Act, 1923, notes of denominational value exceeding rupees one hundred cannot be deemed to be not in circulation until 100 years after the date of issue, whereas notes of lower denominations are so deemed after 40 years. This distinction between the higher and the lower denominations of notes is undesirable. In practice, notes of higher denomination are much less likely to be outstanding for a very long period than notes of lower denomination, and the practice at the Bank of England is to treat all notes as not in circulation after 40 years. It is considered that the Reserve Bank might with advantage follow the practice of the Bank of England.

Clause 30.—This is based upon paragraph 144 of the report. The Commission recommend that coin and bullion and securities to be transferred to the Issue Department should be specified in a Schedule. The amount of notes in circulation at the time of inauguration of the Bank will not be known when the Bill is introduced and passed and also between the dates of introduction of the Bill and its passing into law and the inauguration of the Bank, there will be changes in the constitution of the reserve held against note issue. It is, therefore, proposed to provide for the transfer to the Bank of assets of such a nature as to enable the Bank to constitute the Reserve in accordance with the requirements laid down in the Act. In order to give the new Bank the necessary margin over minimum requirements, it is proposed to include in the assets transferred, gold and gold securities equal to one-half of the liabilities of the Issue Department as suggested in clause 3(a) of Schedule III to the report.

Clause 31.—This gives effect to the recommendations in paragraph 147 of the report regarding the disposal of surplus rupee by the Bank.

Clause 32.—This gives effect to the recommendations in paragraph 147 of the report. As it would be uneconomical to coin new rupees until the stock of silver rupees in the Reserve is reduced to the minimum of 25 crores or one-tenth of the total amount of the Reserve, whichever is greater, it is proposed to limit the right of the Bank to demand delivery of rupee coin from Government.

Clause 33.—This gives effect to the recommendations in paragraph 148 of the report regarding the mutual obligations of the Government and the Bank in regard to rupee coin.

Clause 34.—This gives effect to the recommendations in paragraph 152 of the report.

Clause 35.—This gives effect to the recommendations in paragraph 150 of the report regarding the sale of gold by the Bank.

The provision in sub-clause (1) regarding the latest date on which the obligation to sell gold should come into force is based upon the recommendation of the Commission in paragraph 165 of the report.

Clause 36.—This gives effect to the recommendation in paragraph 166 of the report. The Commission recommend that during the transition period the Reserve Bank shall be under an obligation to sell gold or gold exchange at its option. As the Bank will be engaged in building up its gold holding in order to be in a position to undertake the definite obligation to sell gold later, it is proposed to omit the option to sell gold during the interim period.

Clause 37.—This gives effect to the recommendations in paragraphs 151 and 166 of the Commission's report.

Clause 38.—This gives effect to the recommendations in paragraph 153 of the report regarding the suspension of Reserve requirements.

Clause 39.—This gives effect to the recommendations in paragraph 154 of the report regarding the exemption of the Bank from the payment of any tax or duty upon its note issue.

Clause 40.—The provisions in this clause are in accordance with the recommendations in paragraph 149 of the report. The Commission recommend that the Governor General in Council should have the right to take over the assets of the Issue Department so far as they are required to meet the liability of the note or of rupee redemption. It is proposed to give the Governor General in Council the right to take over the assets not only of the Issue Department but of the Banking Department as well, as in theory such a necessity might arise if the Bank failed to keep sufficient assets in the Issue Department. A provision is also made for the carrying on of the note issue in such circumstances by some other agency determined by the Governor General in Council.

Clause 41.—This gives effect to the recommendations in paragraph 161 of the Commission's report with slight modifications. The percentages for minimum reserve balances recommended by the Commission appear somewhat high for India. It is, therefore, proposed to reduce these percentages to $7\frac{1}{2}$ and $2\frac{1}{2}$ per cent. of the demand and time liabilities, respectively.

The definition of "bank or banker" suggested in paragraph 162 of the Commission's report is imperfect, but it is difficult to arrive at any satisfactory definition. It is, therefore, proposed to exhibit in a Schedule attached to the Bill the banks to which the provisions in this clause should apply in the first instance and to give the Governor General in Council power to make alterations in the Schedule later.

As the monthly return will show only the position at the close of the month to which it relates, it is necessary to provide for the receipt of the information mentioned in sub-clause (3) of this clause.

It is also necessary that provision should be made to enable the Government to take action not only on the monthly return submitted by the Bank, but also on any report received from the Board of the Reserve Bank.

Clause 42.—This follows the intention of paragraph 87 of the report.

Clause 43.—This is based upon the recommendations in paragraph 100 of the Commission's report. It is considered unnecessary to build up the Reserve Fund as quickly as the Commission suggest, and a lower rate of accumulation has, therefore, been proposed.

Clause 44.—This gives effect to the recommendations in paragraph 158 of the Commission's report.

Clauses 45 to 47.—These give effect to the recommendations in paragraph 156 of the report.

Clause 48.—This gives effect to the recommendation in paragraph 157 of the report.

Clause 49.—It is necessary to make provision for the contingency of the liquidation of the Bank and the distribution of the Reserve Fund and surplus assets, if any, of the Bank.

Clause 50.—This is based upon the recommendations in paragraph 164 of the report. The Commission proposed that the Governor General in Council should be given absolute power to make regulations. It is thought preferable that regulations should be made by the Board with the previous approval of the Governor General in Council.

Though Local Boards are not to be constituted on the creation of the Reserve Bank, it is proposed in sub-clause (2) (e) to give power to the Reserve Bank to establish such Local Boards if considered necessary later on and to delegate to them such powers and functions as may be desirable.

Clause 51.—The obligations proposed to be imposed on the Government by the Currency Bill to receive sovereigns and half-sovereigns from the public at their bullion value will be taken over by the Bank simultaneously with the transfer of the conduct of the note issue to it.

The Second Schedule.—The provisions contained in this Schedule have been accepted by the Central Board of the Imperial Bank of India and will be placed before the shareholders of the Imperial Bank. The proposed terms will involve no fresh charge on the taxpayer. They are designed to remunerate the Imperial Bank of India for the agency work done for the Reserve Bank and the loss in respect of non-paying branches and to encourage the further extension of banking in India.

The 13th January, 1927.

BASIL P. BLACKETT.



The Calcutta Gazette

THURSDAY, FEBRUARY, 24, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

New Delhi, the 17th January 1927.

No. F.-113-I-27-A. C.—Under rule 18 of the Indian Legislative Rules the Governor General has been pleased to order the publication in the Gazette of India of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and Statement of Objects and Reasons are accordingly published for general information :—

BILL No. 1 OF 1927.

A Bill further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold exchange.

WHEREAS it is expedient further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold exchange; It is hereby enacted as follows :—

III of 1906.
X of 1923

Short title,
extent and
commencement.

1. (1) This Act may be called the Currency Act, 1927.
- (2) It extends to the whole of the British India, including British Baluchistan and the Sonthal Parganas.
- (3) It shall come into force on the 1st day of April, 1927.

Amendment of
Act III of 1906.

2. In the Indian Coinage Act, 1906,—

III of 1906.

(a) for section 11 the following section shall be substituted, namely :—

Demonetization
of sovereign and
half-sovereign.

“11. Gold coins, whether coined at His Majesty's Royal Mint or at any Mint established in pursuance of a proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall not be legal tender in British India in payment or on account, but such coins shall be received at any Government currency office and, at any time after the 30th day of June, 1927, at any Government Treasury, at the bullion value of such coins calculated at the rate of 8·47512 grains troy of fine gold per rupee”; and

(b) the word “and” at the end of clause (d) of sub-section (2) of section 21 and clause (e) of that sub-section shall be omitted.

Amendment of
Act X of 1923.

3. In the Indian Paper Currency Act, 1923—

X of 1923.

(a) to section 2 after the words “in this behalf” the following shall be added, namely :—

“and
‘gold bullion’ includes gold coin”;

(b) in clause (a) of section 11, the words “or in gold coin which is legal tender under the Indian Coinage Act, 1906” shall be omitted;

(c) in section 13—

(i) the words “for gold coin which is not legal tender under the Indian Coinage Act, 1906, or” shall be omitted; and

(ii) for the figures “11·30016” the figures “8·47512” shall be substituted;

(d) in section 18—

(i) in sub-section (4), the words “sovereigns, half-sovereigns” and the words “coin and” shall be omitted; and

(ii) in clause (a) of sub-section (8), for the figures “11·30016” the figures “8·47512” shall be substituted;

(e) in section 19—

(i) in sub-section (3), the words “sovereigns, half-sovereigns” shall be omitted, and in the *Explanation*, after the word “sub-section”, the following words and figures shall be inserted, namely :—

“gold bullion shall be reckoned at the rate of one rupee for 8·47512 grains troy of fine gold, and”; and

(ii) in sub-section (5), the words “coins or”, and the word “coin”, where it occurs for the second time, shall be omitted.

Obligation upon
Government to
purchase gold
bullion tendered for
sale.

4. Any person who offers for sale to the Governor General in Council at the office of the Master of the Mint, Bombay, or at any other place notified in this behalf by the Governor General in Council in the Gazette of India, gold in the form of bars containing not less than 1,065 tolas of fine gold shall, subject to such conditions as the Governor General in Council may, by notification in the Gazette of India, prescribe, be entitled to receive payment for the same at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold.

Obligation upon
Government to sell
gold exchange

5. (1) The Governor General in Council shall sell, to any person who makes a demand in that behalf at the office of the Controller of the Currency, Calcutta, or of the Deputy Controller of the Currency, Bombay, and pays the purchase price in legal tender currency, at a rate equivalent to twenty-one rupees, three annas and ten pies per tola of fine gold, the currency of such gold standard country as may be notified in this behalf by the Governor General in Council in the Gazette of India, for immediate delivery in that country :

Provided that no person shall be entitled to demand an amount of currency of less value than that of 1,065 tolas of fine gold.

(2) For the purpose of determining the equivalent rate applicable to the sale of currency under this section, twenty-one rupees, three annas and ten pies shall be deemed to be equivalent to such sum in that currency as is required to purchase one tola of fine gold in that country at the rate at which the principal currency authority of that country is bound by law to give gold in exchange for currency, after deduction therefrom of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to that country, including interest on its value during transit.

(3) The Governor General in Council shall, from time to time, determine the equivalent rate in accordance with the provisions of sub-section (2), and shall notify the rate so determined in the Gazette of India.

(4) In this section "gold standard country" means any country from which any person is at liberty to export gold and in which any person may obtain gold on demand from the principal currency authority on payment of the equivalent thereof, as prescribed by law, in legal tender money.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give effect to those recommendations of the Royal Commission on Indian Currency and Finance which relate to the immediate stabilisation of the Rupee in relation to gold and to the interim measures required during the transition period pending the bringing into operation of their proposals for the transfer to a Reserve Bank of India of the control of the Note issue and other functions at present performed by the Secretary of State and by the Government of India.

2. The Commission recommend in paragraph 175 of their Report that the Rupee should be stabilised in relation to gold at a rate corresponding to an exchange rate of 1s. 6d. gold for the rupee, that is, at the rate of one rupee for 8·47512 grains of gold. Clause 2 and all but the last portion of sub-clause (e) (i) of clause 3 are designed to give effect to this recommendation and at the same time to remove the legal tender quality of the sovereign and the half-sovereign, which are at present legal tender at the rate of 2s. for the rupee, in accordance with the Commission's recommendation in paragraph 66 of their Report that these gold coins must be demonetised in order to enable a real gold bullion standard to be established. In order, however, to enable the small holders of these coins to convert them into legal tender money, it is proposed to provide for the receipt of these coins in any quantities at their bullion value at the rate of 8·47512 grains of gold per rupee.

3. The Commission recommend in paragraph 166 of their Report that, until the Reserve Bank of India takes over the control of the Note issue, the Government of India must be under a statutory obligation to buy gold and to sell gold or gold exchange at its option at the gold points of the accepted gold parity of the rupee. During the transitory period, the Government of India would be engaged in building up the gold holding in the Reserve and would not therefore exercise its option to give gold. Clauses 4 and 5 are designed to give effect to this recommendation as modified above.

4. Opportunity has been taken to amplify the *Explanation* to sub-section (3) of section 19 of the Indian Paper Currency Act, 1923, which contains the temporary provisions, so as to provide for the valuation of the gold bullion held in the Paper Currency Reserve on the lines of clause (a) of sub-section (8) of section 18 which refers to the permanent provisions which have not yet come into force.

5. It was announced in the press communiqué dated August the 4th, 1926, which accompanied the issue of the Commission's Report, that, pending legislation, the Government would take such steps as may be necessary to confine the movement of exchange within the approximate upper and lower gold points as calculated on the basis of a 1s. 6d. rupee, namely, 1s. 6 $\frac{3}{4}$ d. and 1s. 5 $\frac{1}{4}$ d., respectively, and the Government undertook in the same communiqué to lay proposals before the Legislature during the next Session in order to give the Legislature the earliest possible opportunity of considering the matter. A Bill designed to give effect to that undertaking was accordingly placed before the Legislature in August last. Further consideration of the Bill was postponed and the Bill automatically lapsed on the dissolution of the last Assembly. The present Bill is substantially the same in its purposes as the Bill introduced in August last, but the opportunity has been taken to effect certain improvements in the drafting.

The 12th January, 1927.

BASIL P. BLACKETT.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

New Delhi, the 17th January, 1927.

No. F-136-I/26-A. C.—Under Rule 18 of the Indian Legislative Rules the Governor General has been pleased to order the publication in the Gazette of India of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and Statement of Objects and Reasons are accordingly published for general information.

BILL NO. 3 OF 1927.

A Bill further to amend the Imperial Bank of India Act, 1920, for certain purposes.

WHEREAS by reason of the constitution of the Reserve Bank of India it is expedient further to amend the Imperial Bank of India Act, 1920, in order to modify the control of the Governor General in Council over the management of the Bank, to remove certain restrictions on the transaction of business by the Bank, and to provide for an agreement between the Bank and the Reserve Bank of India ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Imperial Bank of India (Amendment) Act, 1927.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Repeal of section 9, Act XLVII of 1920.

2. Section 9 of the Imperial Bank of India Act, 1920 (hereinafter referred to as the said Act), is hereby repealed.

Amendment of section 10, Act XLVII of 1920.

3. (1) In sub-section (1) of section 10 of the said Act,—

(a) for the words “the Secretary of State for India in Council” the words “the Reserve Bank of India” shall be substituted ;

(b) in clause (i), the words “to act as banker for, and” shall be omitted, and after the word “securities” the words “as agent for the Reserve Bank of India” shall be inserted ; and

(c) in clause (ii), for the words “business which the Government” the words “Government business which the Reserve Bank of India” shall be substituted.

(2) In sub-section (2) of the same section, clause (a) and the letter and brackets “(b)” shall be omitted.

Amendment of section 12, Act XLVII of 1920.

4. In clause (a) of section 12 of the said Act, after the words “at such places” the words “whether in India or elsewhere” shall be inserted.

Amendment of section 13, Act XLVII of 1920.

5. In sub-section (1) of section 13 of the said Act, the words “With the sanction of the Governor General in Council” shall be omitted ; after the words “in India” the words “or elsewhere” shall be inserted ; and the *Explanation* shall be omitted.

Amendment of section 23, Act XLVII of 1920.

6. In section 23 of the said Act, the words “with the previous sanction of the Governor General in Council” and words “The Bank may also, subject to the provisions of this Act as to the business to be transacted there, establish an office in London” shall be omitted.

Amendment of
section 25,
Act XLVII of 1920.

7. In section 25 of the said Act, the words "with the previous sanction of the Governor General in Council" shall be omitted.

Substitution of new
section for section
28, Act XLVII of
1920.

8. For section 28 of the said Act the following section shall be substituted, namely :—

Constitution of
Central Board.

"28. (1) The Central Board shall consist of the following Governors, namely :—

- (i) the presidents and vice-presidents of the Local Boards established by this Act ;
- (ii) a Managing Governor who shall be appointed by the Central Board for a period of five years on such terms as the Central Board may direct and may be continued in his appointment by the Central Board for such further periods not exceeding five years in each case as the Central Board thinks fit ;
- (iii) a Deputy Managing Governor who shall be appointed by the Central Board ;
- (iv) the secretaries of the Local Boards established by this Act ; and
- (v) if any Local Board is hereafter established under this Act, such number of persons to represent it as the Central Board may prescribe.

(2) The Governors specified in clauses (iii) and (iv) and any Governors appointed under clause (v) of subsection (1) shall be at liberty to attend all meetings of the Central Board and to take part in its deliberations, but shall not be entitled to vote on any question arising at any meeting ;

Provided that the Deputy Managing Governor shall be entitled to vote in the absence of the Managing Governor."

Repeal of section
30, Act XLVII of
1920.

9. Section 30 of the said Act is hereby repealed.

Amendment of
Schedule I,
Act XLVII of
1920.

10. In Part I of Schedule I to the said Act, the following amendments shall be made, namely :—

(1) after sub-clause (i) of clause (a) the following sub-clause shall be inserted, namely :—

"(ia) shares of the Reserve Bank of India and, subject to any general or special directions of the Central Board, fully paid shares and debentures of companies with limited liability whether registered in India or elsewhere" ;

(2) in sub-clause (iii) of the same clause, after the words "a district board" the words "or a municipal board or committee" shall be inserted ;

(3) for sub-clause (iv) of the same clause, the following sub-clause shall be substituted, namely :—

"(iv) goods which, or the documents of title to which, are deposited with or pledged, hypothecated, assigned or transferred to, the Bank as security for such advances, loans or credits" ;

(4) in sub-clause (vi) of the same clause, the words "fully paid shares and debentures of companies with limited liability or" shall be omitted ;

(5) in clause (b), for the words "assigned to" the words "or pledged, hypothecated, assigned or transferred to" shall be substituted ;

- (6) in clause (d), the words beginning with the words "payable in India, or in Ceylon" and ending with the words "may approve in that behalf" shall be omitted;
- (7) in clause (f), the words "made payable in India, or in Ceylon" shall be omitted;
- (8) in clause (l), for the words "the acting as administrator, executor or trustee for the purpose of winding up estates" the words "the administration of estates for any purpose whether as an executor, trustee or otherwise" shall be substituted;
- (9) in sub-clause (iii) of the same clause, the words "at the risk of the principal" shall be omitted;
- (10) in clause (m), the words beginning with the words "for the use of" and ending with the words "personal needs" shall be omitted;
- (11) in clause (n), the words "for the purpose of meeting such bills or letters of credit" shall be omitted;
- (12) in clause (o), the words "in India" shall be omitted;
- (13) clause (p) shall be omitted; and
- (14) in clause (q), after the words "kinds of business" the words "including foreign exchange business" shall be inserted.

Amendment of
regulation 10,
Schedule II, Act
XLVII of 1920.

11. In regulation 10 in Schedule II to the said Act (that Schedule being hereinafter referred to as the said Schedule), the words "not being fully paid shares" shall be omitted.

Amendment of
regulation 11,
Schedule II, Act
XLVII of 1920.

12. In regulation 11 in the said Schedule,—

- (a) after the word "share", where it first occurs, the words "or the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925, in respect of the share" shall be inserted; and

XXXIX of
1925.

- (b) after the words "deceased survivor" the words "or any person who is the holder of a succession certificate in respect of such survivor's interest in the share" shall be inserted.

Amendment of
regulation 19,
Schedule II, Act
XLVII of 1920.

13. In regulation 19 in the said Schedule, the words "and with the previous sanction of the Governor General in Council" shall be omitted.

Amendment of
regulation 23,
Schedule II, Act
XLVII of 1920.

14. In regulation 23 in the said Schedule, in sub-regulation (2), for the words "a Managing Governor" the words "the Managing Governor" shall be substituted.

Amendment of
regulation 38,
Schedule II, Act
XLVII of 1920.

15. In regulation 38 in the said Schedule, for the words "Managing Governors" the words "the Managing Governor" shall be substituted.

Amendment of
regulation 39,
Schedule II, Act
XLVII of 1920.

16. In regulation 39 of the said Schedule,—

- (a) in sub-regulation (1), the words "or is nominated or appointed by the Governor General in Council" shall be omitted;
- (b) in sub-regulation (2), the words beginning with the words "Provided that" and ending with the word and figures "section 28" shall be omitted; and
- (c) in sub-regulation (3), the words "or of the Central Board and Local Board" shall be omitted.

Amendment of regulation 40, Schedule II, Act XLVII of 1920.

17. In regulation 40 in the said Schedule, the words and brackets "(other than a Governor nominated or appointed by the Governor General in Council)" shall be omitted.

Amendment of regulation 42, Schedule II, Act XLVII of 1920.

18. In regulation 42 in the said Schedule, for the words "a Managing Governor," wherever they occur, the words "the Managing Governor" shall be substituted.

Amendment of regulation 44, Schedule II, Act XLVII of 1920.

19. For sub-regulation (1) of regulation 44 in the said Schedule the following shall be substituted, namely :—

"(1) At the first meeting of the Local Board which takes place after the first meeting of the Central Board in each year, the Local Board shall elect from among its members a president and a vice-president who shall continue in their respective offices until the first meeting of the Local Board after the first meeting of the Central Board in the following year, and, whenever the office of president or vice-president becomes vacant, the Local Board shall at its next meeting elect a successor who shall hold office for the unexpired portion of the period for which his predecessor was appointed :

Provided that no person shall be elected to be president or vice-president more than twice in succession."

Amendment of regulation 49, Schedule II, Act XLVII of 1920.

20. In regulation 49 in the said Schedule,—

(a) In sub-regulation (1), for the words "a Managing Governor" the words "the Managing Governor" shall be substituted ;

(b) in sub-regulation (5), after the word "secretary" the words "or deputy secretary" shall be inserted.

Amendment of regulation 51, Schedule II, Act XLVII of 1920.

21. In regulation 51 in the said Schedule, for the word "Governors" the word "Governor", and for the word "officers" the word "employees", shall be substituted.

Amendment of regulation 54, Schedule II, Act XLVII of 1920.

22. In regulation 54 in the said Schedule, sub-regulation (3) shall be omitted.

Amendment of regulation 58, Schedule II, Act XLVII of 1920.

23. In sub-regulation (2) of regulation 58 in the said Schedule, for the words in the proviso "a special meeting shall be called for the purpose of supplying the same" the words "the vacancy may be filled by the Central Board" shall be substituted.

Temporary saving of existing Central Board.

24. Notwithstanding any amendment made in the said Act by this Act in regard to the manner in which the Central Board shall be constituted, the Central Board existing at the commencement of this Act shall, until it can be re-established in accordance with the said Act as amended by this Act, continue to transact business and shall have all the powers of the Central Board under the said Act as so amended.

STATEMENT OF OBJECTS AND REASONS.

The Royal Commission on Indian Currency and Finance have recommended that with the transfer to the Reserve Bank of India of the purely central banking functions, which are at present performed by the Imperial Bank of India, the latter should be freed from the restrictions which on account of its hybrid nature are at present imposed upon

that Bank. This Bill is intended to remove some of those restrictions and to modify the control of Government over the operations of the Bank. The amendments to the Imperial Bank of India Act proposed in this Bill have been accepted by the Central Board of the Bank subject to any further modifications deemed necessary later on in the light of further consideration. The more important provisions of the Bill are :—

It is proposed to replace section 10 of the Imperial Bank of India Act by another authorising the Bank to enter into an agreement with the Reserve Bank of India to conduct Government business as agent of the Reserve Bank.

It is proposed to remove the limitation imposed by section 9 on the business which the Bank may transact at its London office, and to give specific powers to the Bank to open branches outside India in London and elsewhere.

It is also proposed to give the Bank extended powers in regard to its internal business and to remove restrictions on the foreign exchange business which the Bank may transact.

At present the Controller of the Currency is an *ex officio* member, of the Central Board of the bank and the Governor General in Council nominates 4 other members to the Board under section 28 of the Imperial Bank of India Act. Although the Imperial Bank of India will transact Government business as the agent of the Reserve bank, it will have no direct connection with the Government, and it seems unnecessary for the Government to retain any measure of control over the operations of the Bank by the appointment of members to the Board. It is, therefore, proposed to remove the right of the Governor General in Council to appoint such members.

The Governor General in Council is now entitled under Regulation 54 of the Imperial Bank of India Act to require of the Central Board of the Bank any information touching the affairs of the Bank and the production of any documents of the Bank, and he may also require the publication of such statements of its assets and liabilities, in such form and at such intervals as he thinks fit. It is proposed to remove this power from the Governor General in Council, but, in order that he may be in a position to examine the affairs of the Bank in case of necessity, the provision by which he may appoint auditors under Regulation 59 to examine and report upon the accounts of the Bank is proposed to be retained.

2. A number of minor amendments incidental to the above are also made, and opportunity has been taken to introduce some small changes in the Act in sections which have been found difficult to work in practice.

BASIL P. BLACKETT.

The 14th January, 1927.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

New Delhi, the 17th January, 1927.

No. F.-114-I-27-A.C.—Under Rule 18 of the Indian Legislative Rules the Governor General has been pleased to order the publication in the Gazette of India of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and Statement of Objects and Reasons are accordingly published for general information :—

BILL NO. 4 OF 1927.

A Bill to provide for the continuance of the protection of the steel industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, that increased import duties should continue to be levied on certain iron and steel articles for the purpose of fostering and developing the steel industry in British India, and that the rates of the duties leviable in the application of that policy should be fixed for a period of seven years from the 1st day of April, 1927; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Steel Industry (Protection) Act, 1927.

(2) It shall come into force on the 1st day of April, 1927.

Amendment of section 3, Act VIII of 1894.

2. (1) For sub-section (4) of section 3 of the Indian Tariff Act, 1894, the following sub-sections shall be substituted, namely :—

VIII of 1894.

“(4) If the Governor General in Council is satisfied, after such inquiry as he thinks necessary, that articles not of British manufacture chargeable under Part VII of the Second Schedule with a higher duty than similar articles of British manufacture are being imported into British India from any place outside India at such a price as is likely to render ineffective or excessive the protection intended to be afforded by such duty to similar articles manufactured in India, he may, by notification in the Gazette of India, increase or reduce such duty to such extent as he considers necessary either generally or in respect of such articles when imported from or manufactured in any country or countries specified in the notification :

Provided that the duty leviable on any such article shall in no case be less than the duty leviable on a like article of British manufacture.

(5) The Governor General in Council may, by notification in the Gazette of India, prescribe the conditions subject to which articles shall be deemed to be of British manufacture for the purposes of this section and of the Second Schedule.”

(2) In the Second Schedule to the same Act there shall be made the amendments specified in the Schedule to this Act.

(3) The amendments made by this section other than those made in Parts I and II of the Second Schedule to the Indian Tariff Act, 1894, shall have effect only up to the 31st day of March 1934.

VIII of 1894.

Statutory inquiry.

3. The Governor General in Council shall, not earlier than the 31st day of March 1933, and not later than the 31st day of March 1934, cause to be made, by such persons as he may appoint in this behalf, an enquiry as to the extent, if any, to which it is necessary to continue the protection of the steel industry in British India and as to the manner in which any protection found necessary should be conferred.

Repeal of Act XIV of 1924.

4. The Steel Industry (Protection) Act, 1924, is hereby repealed. XIV of 1924.

THE SCHEDULE.

AMENDMENTS TO BE MADE IN SCHEDULE II OF THE INDIAN TARIFF ACT, 1894.

(See section 2.)

1. In Part I after item No. 20 the following item shall be inserted, namely :—

"20A | ZINC, unwrought, including cakes, ingots, tiles (other than boiler tiles), hard or soft slabs and plates, dust, dross and ashes ; and broken zinc."

2. In Part II—

- (a) in the heading, after the words "liable to" the word "non-protective" shall be inserted ; and
(b) after item No. 39 the following heading and item shall be inserted, namely :—

"METALS.

39A | TIN, block | Ton | Rs. 250."

3. For items Nos. 60, 61 and 62 and the heading there-to the following shall be substituted, namely :—

"METALS—IRON AND STEEL.

60	IRON alloys.
	" angle, channel and tee not otherwise specified (<i>see</i> No. 143).
	" bar and rod not otherwise specified (<i>see</i> No. 144).
	" pig.
	" rice bowls.
61	IRON OR STEEL anchors and cables.
	" bolts and nuts, including hook-bolts and nuts for roofing.
	" hoops and strips.
	" nails, rivets and washers, all sorts, not otherwise specified (<i>see</i> No. 145).
	" pipes and tubes ; also fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like, excluding pipes, tubes and fittings therefor otherwise specified (<i>see</i> No. 146).
	" railway track material not otherwise specified (<i>see</i> Nos. 63 and 150) including bearing plates, cast iron sleepers and fastenings therefor, and lever-boxes.
	" tramway track material, not otherwise specified (<i>see</i> No. 150), including rails, fish-plates, tie-bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks.
	" sheets (including cuttings, discs and circles) under $\frac{3}{8}$ inch thick, whether fabricated or not, if coated with metals other than tin or zinc.
	" plates and sheets (including cuttings, discs and circles) not under $\frac{3}{8}$ inch thick, not otherwise specified (<i>see</i> Nos. 146, 147, 153 and 154), whether fabricated or not.
	" barbed or stranded fencing-wire and wire-rope.
	" (other than bar or rod) specially designed for the reinforcement of concrete.
	" expanded metal.

- 62 STEEL, angle and tee if galvaniz. l, tinned or lead coated.
- „ (other than bars) alloy, crucible, shear, blister and tub.
 - „ (other than bars) made for springs and cutting tools by any process.
 - „ ingots, blooms and billets, and slabs of a thickness of $1\frac{1}{2}$ inches or more.
 - „ bar and rod, the following kinds—
 - (a) shapes specially designed for the reinforcement of concrete, if the smallest dimension is under $\frac{1}{2}$ inch ;
 - (b) all shapes and sizes, if—
 - (i) of alloy, crucible, shear, blister or tub steel, or
 - (ii) galvanized or coated with other metals, or
 - (iii) planished or polished, including bright steel shafting ;
 - (c) other qualities, if of any of the following shapes and sizes—
 - (i) rounds under $\frac{1}{2}$ inch diameter,
 - (ii) squares under $\frac{1}{2}$ inch size,
 - (iii) flats, if under 1 inch wide and not over $\frac{1}{2}$ inch thick,
 - (iv) flats not under 8 inches wide and not over $\frac{1}{2}$ inch thick,
 - (v) ovals, if the dimension of the major axis is not less than twice that of the minor axis."

4. For item No. 63 and the heading thereto the following shall be substituted, namely :—

“ RAILWAY PLANT AND ROLLING-STOCK.

63 RAILWAY MATERIALS for permanent-way and rolling-stock, namely, sleepers, other than iron and steel, and fastenings therefor ; bearing plates, fish bolts and nuts, chairs, interlocking apparatus, brake-gear, shunting skids, couplings and springs, signals, turn-tables, weighbridges, carriages, wagons, traversers, rail removers, scooters, trollies, trucks, and component parts thereof ; switches, crossings and the like materials made of alloy steel ; also cranes, water-cranes and water-tank when imported by or under the orders of a railway company :

Provided that for the purpose of this entry ‘ railway ’ means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a State in India and also such tramways as the Governor General in Council may, by notification in the Gazette of India, specifically include therein :

• Provided also that nothing shall be deemed to be dutiable hereunder which is dutiable under No. 51 or No. 51A."

5. In item No. 87, before the word “ tramcars ” the words “ CONVEYANCES not specified in No. 142, namely,” shall be inserted.

6. After Part VI the following Part shall be inserted, namely :—

“PART VII.

Articles which are liable to protective duty at special rates.

No.	Name of Article.	Rate of duty.
	CONVEYANCES.	
142	COAL TUBS, tipping wagons and the like conveyances designed for use on light rail track, if adapted to be worked by manual or animal labour and if made mainly of iron or steel; and component parts thereof made of iron or steel—	
	(a) if of British manufacture ...	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	(b) if not of British manufacture	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher plus Rs. 15 per ton.
	METALS—IRON AND STEEL.	
143	IRON angle, channel and tee—	
	(a) fabricated, all qualities—	
	(i) of British manufacture...	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	(ii) not of British manufacture.	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 15 per ton.
	(b) not fabricated, kinds other than galvanized tinned or lead-coated and other than Crown or superior qualities—	
	(i) of British manufacture ...	Rs. 19 per ton.
	(ii) not of British manufacture.	Rs. 30 per ton.
144	IRON, COMMON BAR not galvanized, tinned or lead-coated if not of any shape and dimension specified in clause (a) or clause (c) of No. 62—	
	(i) of British manufacture ...	Rs. 26 per ton.
	(ii) not of British manufacture.	Rs. 37 per ton.
145	IRON OR STEEL NAILS, wire or French.	Rs. 3 per cwt.
146	IRON OR STEEL PIPES and tubes and fittings therefor, if rivetted or otherwise built up of plates or sheets—	
	(a) galvanized ...	Rs. 33 per ton 17 per cent. <i>ad valorem</i> , whichever is higher.

No.	Name of Article.	Rate of duty.
146	IRON OR STEEL PIPES and tubes and fittings therefor, if rivetted or otherwise built up of plates or sheets— <i>concl'd.</i> (b) not galvanized— (i) not under $\frac{1}{8}$ inch thick— of British manufacture not of British manufacture. (ii) under $\frac{1}{8}$ inch thick— of British manufacture not of British manufacture.	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 15 per ton. Rs. 39 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 39 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 26 per ton.
147	IRON OR STEEL plates or sheets (including cuttings, discs and circles) not under $\frac{1}{8}$ inch thick and not of cast iron— (a) fabricated, all qualities— (i) of British manufacture (ii) not of British manufacture. (b) not fabricated, chequered and ship, tank, bridge and common qualities— (i) of British manufacture (ii) not of British manufacture.	Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher plus Rs. 15 per ton. Rs. 20 per ton. Rs. 36 per ton.
148	IRON OR STEEL sheets (including cuttings, discs and circles) under $\frac{1}{8}$ inch thick— (a) fabricated— (i) galvanized ... (ii) all other sorts not otherwise specified (<i>see</i> No. 61)— of British manufacture not of British manufacture. (b) not fabricated— (i) galvanized ... (ii) all other sorts not otherwise specified (<i>see</i> Nos. 61 and 154)— of British manufacture not of British manufacture.	Rs. 33 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 39 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 39 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 26 per ton. Rs. 30 per ton. Rs. 35 per ton. Rs. 59 per ton.

No.	Name of Article.	Rate of duty.
149	IRON OR STEEL WIRE, other than barbed or stranded fencing wire, wire-rope or wire-netting.	Rs. 60 per ton.
149A	IRON OR STEEL, the original material (but not including machinery, <i>see</i> Nos. 51 and 51A) of any ship or other vessel intended for inland or harbour navigation which has been assembled abroad, taken to pieces and shipped for reassembly in India : Provided that articles dutiable under this item shall not be deemed to be dutiable under any other item.	Rs. 23 per ton or 10 per cent. <i>ad valorem</i> , whichever is higher.
150	IRON OR STEEL RAILWAY TRACK MATERIAL—	
	A. Rails (including tramway rails the heads of which are not grooved)—	
	(a) (i) 30 lbs. per yard and over.	Rs. 13 per ton.
	(ii) fish-plates therefor ...	Rs. 6 per ton or 10 per cent. <i>ad valorem</i> , whichever is higher.
	(iii) spikes and tie-bars therefor—	
	of British manufacture ...	Rs. 26 per ton.
	not of British manufacture ...	Rs. 37 per ton.
	(b) under 30 lbs. per yard, and fish-plates, spikes and tie-bars therefor :—	
	if of British manufacture ...	Rs. 26 per ton.
	if not of British manufacture.	Rs. 37 per ton.
	B. Switches and crossings and the like materials not made of alloy steel, including switches and crossings and the like materials for tramway rails the heads of which are not grooved—	
	(i) for rails 30 lbs. per yard and over.	Rs. 14 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	(ii) for rails under 30 lbs per yard—	
	of British manufacture ...	Rs. 29 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	not of British manufacture	Rs. 29 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 12 per ton.
	C. Sleepers, other than cast iron, and keys and distance pieces and the like for use with such sleepers.	Rs. 10 per ton or 10 per cent. <i>ad valorem</i> , whichever is higher.

No.	Name of Articles.	Rate of duty.
151	STEEL, angle and tee, not otherwise specified (<i>see</i> No. 62) and beam, channel, zed, trough and piling— (a) fabricated— (i) of British manufacture (ii) not of British manufacture. (b) not fabricated— (i) of British manufacture (ii) not of British manufacture.	 Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 15 per ton. Rs. 19 per ton Rs. 30 per ton.
152	STEEL, bar and rod, not otherwise specified (<i>see</i> No. 62)— (i) of British manufacture (ii) not of British manufacture.	 Rs. 26 per ton. Rs. 37 per ton.
153	STEEL STRUCTURES, fabricated partially or wholly, not otherwise specified, if made mainly or wholly of steelbars, sections, plates or sheets, for the construction of buildings, bridges, tanks, wellcurbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware (<i>see</i> No. 90) or any of the articles specified in Nos. 51, 51A, 64 or 87— (i) of British manufacture ... (ii) not of British manufacture	 Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher. Rs. 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 15 per ton.
154	STEEL, tinplates and tinued sheets, including in taggers and cuttings of such plates, sheets or taggers.	Rs. 48 per ton."

STATEMENT OF OBJECTS AND REASONS.

Section 6 of the Steel Industry (Protection) Act, 1924 (XIV of 1924), provides, that before the 31st day of March 1927, the Governor General in Council shall cause an inquiry to be made as to the extent, if any, to which it is necessary to continue the protection of the steel industry, and as to the duties and bounties which are necessary for the purpose of conferring such protection. By a Resolution, dated 3rd April 1926, the Tariff Board was directed to make the inquiry contemplated by the Act, and its recommendations are contained in the Report which has been published. This Bill is designed to give effect to the main recommendations of the Board.

2. In accordance with the Tariff Board's proposals, the Bill provides for the continuance of protection to the steel industry by means of increased duties on imports and not by the grant of bounties on production. The increased duties will have effect for a period of seven years from the 1st of April 1927 to the 31st of March 1934. It is made clear, however, in the preamble and in clause 2 (3) of the Bill that the limitation to seven years is applicable only to the rates of duty proposed to be fixed, and not to the policy of discriminating protection itself. Clause 3 of the Bill also provides for a statutory inquiry in the year 1933-34 in order to ascertain what amount of protection may still be necessary, and the manner in which it should be conferred.

3. Following the Tariff Board's recommendations, the Bill provides for the imposition of differential rates of duty on certain iron and steel articles. Such articles, if of British manufacture, will be subject to a lower rate of duty—which the Board call the basic duty—and if not of British manufacture, to a higher rate of duty. It is the difference between these two rates which constitutes what the Board call the additional duty. Power is taken in clause 2 (1) of the Bill to increase or reduce the duties on articles not of British manufacture, subject to the proviso that the duties on such articles shall not be less than the duties on similar articles of British manufacture. The duties to be imposed on unfabricated iron and steel by the Schedule to the Bill are the specific duties recommended by the Tariff Board. The Schedule also imposes on the various classes of fabricated steel an *ad valorem* duty of 17 per cent., and also, if the articles are not of British manufacture, an additional specific duty. The Board have proposed that the *ad valorem* duty on each class of fabricated steel should be subject to a specific minimum rate, in order to avoid the anomalies which have been found to arise when, as sometimes happens, the *ad valorem* duty on fabricated iron or steel is lower than the specific duty on unfabricated iron or steel of the same kind. Effect has been given to this proposal in the Schedule to the Bill, but in order to facilitate Customs administration and to prevent disputes as to the correct classification of particular consignments, the minimum and additional duties on all classes of fabricated iron or steel (other than iron or steel sheets) have been fixed at the same amounts.

4. Apart from the proposals made by the Tariff Board in the report submitted on the completion of the statutory inquiry, the Bill gives effect also to two recommendations made by the Board in earlier Reports. Both are closely connected with the continuance of protection to the steel industry. It is proposed to remove the duty on unwrought zinc and the main object of this change is to reduce the cost of manufacturing galvanized sheet and consequently the amount of protection it requires. The second proposal is the reduction of the duty on block tin from 15 per cent. *ad valorem* to Rs. 250 a ton, which has already been approved by Resolutions of the Assembly, passed on the 17th February, 1926, and of the Council of State, passed on the 23rd February 1926, with the object of giving supplementary assistance to the tinplate industry. Effect was given to the change by means of a Notification under section 23 of the Sea Customs Act, and it is now proposed to provide for the reduction of duty by an amendment to the Schedule of the Tariff Act, 1894. It is not intended that the removal of the duty on unwrought zinc and the reduction of the duty on block tin should remain in force only for a period of seven years, and by clause 2 (3) of the Bill these amendments of the Tariff Schedule are excluded from the operation of the seven years' limit.

5. Protective duties were imposed by the Steel Industry (Protection) Act, 1924, on certain kinds of iron or steel wire and on wire nails. The Tariff Board found it impossible to include in their Report proposals regarding these articles, and it is not certain that the Board will be able to submit their recommendations in time to allow of their consideration while the Bill is before the Legislature. In the Schedule to the Bill, therefore, the existing protective duties on wire and wire nails are continued, but it is the intention of the Government of India to bring the question of the continuance or modification of these duties before the Legislature in the Simla Session.

C. A. INNES.

14th January, 1927.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY.]

A Bill further to amend the Code of Civil Procedure, 1908, for certain purposes.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 192 .

(2) It shall come into force on the 1st day of January, 1928.

Amendment of section 2, Act V of 1908.

2. In clause (2) of section 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), after sub-clause (b), the following shall be added, namely:—

“(c) any adjudication or decision relating to the manner in which a proclamation of sale in execution of a decree shall be drawn up or the matters included therein.”

Substitution of new section for section 38, Act V of 1908.

3. For section 38 of the said Code the following section shall be substituted, namely:—

Courts by which decree may be executed.

“38. Subject to the provisions hereinafter contained, a decree may be executed by the Court which passed it or by any Court or Courts to which it is sent for execution or by all or any of such Courts simultaneously.”

Amendment of section 39, Act V of 1908.

4. In section 39 of the said Code,—

(a) in clause (b) of sub-section (1), the words “has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and” shall be omitted; and

(b) after sub-section (2) the following sub-section shall be added, namely:—

“(3) Where a decree has been sent for execution to another Court and any property against which it can be executed is situated within the local limits of the jurisdiction both of the Court which passed the decree and of the Court to which it is so sent, the Court which passed the decree shall not execute the decree against such property until such other Court has certified the result of the execution to the Court which passed the decree.”

Insertion of new section after section 39 in Act V of 1908.

5. After section 39 of the said Code the following section shall be inserted, namely:—

Objections to jurisdiction.

“39A. No objection as to the jurisdiction of any Court by which a decree has been executed shall be allowed by any appellate or revisional Court unless such objection was taken at the earliest possible opportunity in such first-mentioned Court and unless there has been a consequent failure of justice.”

Insertion of new section after section 40, Act V of 1908.

6. After section 40 of the said Code the following section shall be inserted, namely:—

Pecuniary jurisdiction of Courts to which decrees may be sent for execution.

“40A. Nothing hereinbefore contained shall be deemed to authorise any Court by which a decree has been passed to send it for execution to any other Court, if the amount or value of the subject-matter of the suit in which the decree was passed exceeds the pecuniary limits of the ordinary jurisdiction of such other Court.”

Amendment of
section 47, Act V
of 1908.

7. For the *Explanation* to section 47 of the said Code the following shall be substituted, namely :—

“ *Explanation*.—For the purposes of this section,—

- (a) any plaintiff whose suit has been dismissed or any defendant against whom a suit has been dismissed shall be deemed to be a party to the suit unless he has been improperly joined as a party and his name has been struck out by the Court or, in the case of a defendant, the plaintiff has claimed no relief from him ; and
- (b) a purchaser at a sale in execution of a decree shall be deemed to be a representative both of the decree-holder and of the judgment-debtor to whom the property sold belonged.”

Amendment of
section 60,
Act V of 1908.

8. In the proviso to sub-section (1) of section 60 of the said Code,—

(a) in clause (h), for the words “allowances (being less than salary)” the words “any subsistence grant or allowance”, and for the words “absent from duty” the words “under suspension” shall be substituted ; and

(b) in clause (i), for the words beginning with the words “the salary or allowances” and ending with the words “one moiety of the salary in any other case” the following shall be substituted, namely :—

the salary or, in a case where no salary is drawn, the allowances, other than subsistence grant or allowance, of any such public officer or servant as is referred to in clause (h), to the extent of—

- (i) the whole of the salary or allowances, where the same does not exceed forty rupees monthly ;
- (ii) forty rupees monthly, where the whole of the salary or allowances exceeds forty rupees and does not exceed eighty rupees monthly ; and
- (iii) one-half of the salary or allowances in any other case”.

Amendment of
section 63, Act
V of 1908.

9. In sub-section (1) of section 63 of the said Code, for the words “under whose decree” the words “by whose order” shall be substituted.

Amendment of
section 66,
Act V of 1908.

10. To sub-section (1) of section 66 of the said Code after the words “the plaintiff claims”, the following shall be added, namely :—

“and in any suit or other proceeding instituted on or after the 1st day of January, 1928, no plea shall be maintainable by or on behalf of a defendant or any person opposing or objecting to any claim that any person certified as aforesaid made the purchase on behalf of such defendant, opponent or objector, unless such defendant, opponent or objector is in possession of the property.”

Substitution of
new section
for section 72,
Act V of 1908.

11. For section 72 of the said Code the following section shall be substituted, namely :—

Satisfaction of
decree by alienation
of immoveable
property otherwise
than by public sale.

72. (1) Where in any local area in which no declaration under section 68 is in force the property attached consists of land or of a share in land, the Court shall inform the Collector of the attachment and shall, if it is satisfied, whether on a representation made by him or otherwise, that the public sale of the land or share is objectionable and that satisfaction of the decree may be made within a reasonable time by a temporary alienation of the land or share, either provide or authorise the Collector to provide for such satisfaction in such manner as it or he, as the case may be, thinks fit, instead of proceeding to a sale of the land or share.

(2) Where the Court authorises the Collector to provide for the satisfaction of the decree under sub-section (1), the provisions of sections 69 to 71 and of any rules made in pursuance thereof shall apply so far as they are applicable."

Amendment of section 73, Act V of 1908.

12. (1) In sub-section (1) of section 73 of the said Code, for the words "the assets, after deducting the costs of realization, shall be rateably distributed among all such persons" the following shall be substituted, namely :—

"the costs of realization shall be deducted from such assets, and of the remainder one-fortieth part shall be payable to the person by whom the first of such applications was made, and the balance shall be rateably distributed among all the persons who have made such applications."

(2) In sub-section (2) of the same section the word "rateably" shall be omitted.

Amendment of section 102, Act V of 1908.

13. In section 102 of the said Code, after the words "five hundred rupees" the following shall be added, namely :—

"or, without the leave of the Court, in any proceeding for the determination of any question within section 47."

Substitution of new section for section 145, Act V of 1908.

14. For section 145 of the said Code the following section shall substituted, namely :—

Enforcement of liability against a surety or against property given as security.

"145. (1) Where any person has become liable as a surety, or where any immoveable property is made liable as security,—

- (a) for the performance of any decree or any part thereof, or
- (b) for the restitution of any property taken in execution of a decree, or
- (c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon,

the decree or order may be executed, in the manner provided for the execution of decrees, against such person, after giving to him such notice as the Court may consider sufficient, to the extent to which he has rendered himself personally liable, or as the case may be, against the property made liable as security, to the extent of the amount secured.

(2) For the purposes of section 47, a person against whom a decree is being, or has been, executed under sub-section (1) shall be deemed to be a party to the suit or proceeding, and any order relating to the attachment and sale of any property made liable as security under that sub-section shall be deemed to be the determination of a question within that section, and the provisions of that section shall apply accordingly :

Provided that the Court may, if it thinks fit, direct the person who has applied for the execution of the decree or order to institute a suit for the enforcement of such security."

Amendment of section 152, Act V of 1908.

15. Section 152 of the said Code shall be renumbered as sub-section (1) of that section, and to that section as so re-numbered the following sub-section shall be added, namely :—

"(2) The power conferred by sub-section (1) upon the Court in respect of its own decrees or orders may be

exercised in respect of any decree or order sent to it for execution, and any correction made in a decree or order in exercise of this power shall be communicated forthwith to the Court by which a decree or order was passed."

Amendment of
Order XX, First
Schedule, Act V of
1908.

16. For rule 7 in Order XX in the First Schedule to the said Code (that Schedule being hereinafter referred to as the said Schedule) the following rule shall be substituted, namely :—

Date, scrutiny and,
signature of decree.

"7. (1) The decree shall bear date the day on which the judgment was pronounced.

(2) As soon as the decree has been drawn up, the Court shall cause a notice to be exhibited upon a conspicuous part of the Court-house stating that such decree has been drawn up and saying that it may be scrutinised by the parties or their recognised agents or pleaders, and shall cause a copy of the notice to be served on the pleader, if any, or on any one of several pleaders, duly appointed to act for any party.

(3) Any party to the suit or the recognised agent or pleader of any such party may, within three days of the exhibition of the notice or, where a copy of the notice has been served on a pleader of such service, either sign the decree or prefer an objection to the Court that the decree has been incorrectly prepared.

(4) After the expiry of the period of three days referred to in sub-rule (3), the Judge shall, if he is satisfied that the notice has been exhibited, or exhibited and served, as required by sub-rule (2) and that the decree is drawn up in accordance with the judgment, sign the decree.

(5) Where any party or the recognised agent or pleader of any party has failed or refused to sign the decree, the fact of such failure or refusal shall be recorded by the Court on the decree."

Amendment of
Order XXI, First
Schedule, Act V of
1908.

17. In Order XXI in the said Schedule, the following amendments shall be made, namely :—

(1) After rule 2 the following rule shall be inserted, namely :—

Agreement not to
execute decree.

"2A. No Court executing a decree shall recognise or give effect to any plea by a judgment-debtor that prior to the passing of the decree the decree-holder had agreed not to execute the decree either wholly or in part against him".

(2) Rule 6 shall be re-numbered as sub-rule (1) of rule 6, and to that rule the following sub-rules shall be added, namely :—

"If the Court sends the decree for execution to more Courts than one, it shall, from time to time, inform each such Court of the names of all other Courts to which the decree has been so sent, and shall send to each such Court a certificate setting forth the extent to which the satisfaction of the decree has been obtained by execution whether by itself or by any other Court to which it has been sent.

(3) Where the decree has been sent for execution to more Courts than one, no such Court shall cause to be sold, otherwise than as hereinafter provided in rule 43, any property which has been attached in execution of the decree save by direction of the Court which sent the decree."

(3) In rule 29, after the words "of such Court" the words "or of a decree which has been sent for execution to such Court" shall be inserted.

(4) In rule 53—

(a) in clause (a) of sub-rule (1), after the words "if the decrees were passed by the same Court" the words "or if the decree sought to be attached was passed by the Court to which the decree under execution has been sent for execution" shall be inserted;

(b) in clause (b) of the same sub-rule, after the words "which passed", in both places where they occur, the words "or is executing" shall be inserted; and

(c) in sub-rule (4), after the words "which passed" the words "or is executing" shall be inserted.

(5) In rule 98, for the words "at his instigation", in both places where they occur, the words "on his behalf" shall be substituted.

Amendment of
order XXI, First
Schedule, Act V of
1908.

18. In Order XXI in the said Schedule,—

(i) rule 2 shall be re-numbered as sub-rule (1) of rule 2, and to that rule the following sub-rule shall be added, namely:—

"(2) No appellant shall, except by leave of the Court, urge or be heard in support of any objection that the decree has not been drawn up in accordance with the judgment, unless a like objection has been taken by him or on his behalf in the Court which passed the decree and before the decree was signed by the Judge of that Court"; and

(ii) after rule 10 the following rule shall be inserted, namely:—

"10A. The Appellate Court shall, in every case of an appeal preferred by a judgment-debtor against an order determining a question within section 47 where the decree under execution is one for the payment of money only, before the respondent is called upon to appear and answer, demand from the appellant security for the due satisfaction of the decree, and, if such security is not furnished within such time as the Court orders, the Court shall reject the appeal."

Security for costs
in appeals by
judgment-debtor
against order in
execution.

STATEMENT OF OBJECTS AND REASONS.

In Chapters 29, 30 and 31 of their Report the Civil Justice Committee made a number of recommendations for the amendment of Part II and Order XXI of the First Schedule, Code of Civil Procedure, 1908, relating to the execution of decrees and orders. The Bill gives effect to those recommendations which involve amendments in Part II of the Code, and a few amendments in Order XXI. The remaining recommendations for the amendment of that Order are under separate consideration.

Clause 2 makes it clear that orders settling a sale proclamation under rule 66 of Order XXI, First Schedule to the Code, are purely administrative and subject neither to appeal nor revision.

Clauses 3 and 4 permit concurrent execution by several courts subject to the restriction imposed by the decision of the Privy Council in the Maharaja of Bobbili's case (I. L. R. 39, Madras 640). Sub-rules (2) and (3) to rule 6 of Order XXI, proposed in *clause 17*, provide necessary safeguards.

Clause 5.—New section 39A extends the principle of section 21 of the Code to execution proceedings.

Clause 6.—New section 40A makes it clear that the court which executes the decree must be a court which would have been competent to make the decree.

Clauses 7 and 13.—The intention of the *Explanation* to section 47 is made clearer, and second appeals are made subject to special leave. *Clause 18 (ii)* provides that when a judgment-debtor appeals against an order under that section where the decree is for the payment of money only, he must give security for the decretal amount. The Committee's proposals for the restriction of first appeals from orders under that section are being separately provided for, as these cannot suitably be effected by an amendment of the Code.

Clause 8 correlates leave allowances other than subsistence grant or allowance to salary, while giving full exemption to subsistence grant or allowance.

Clause 10 extends, but not with retrospective effect, the scope of section 66 to the defendant, opponent, or objector who is not in possession of the property purchased.

Clause 11.—Revised section 72 gives Civil Courts authority similar to that now conferred by the section as it stands at present on the Collector for the satisfaction of the decree by a temporary alienation.

Clause 12 allows the creditor who has taken out execution to receive towards the satisfaction of his decree a preference to the extent of $2\frac{1}{2}$ per cent. of the distributable fund in addition to his own share.

Clause 14.—Section 145 is revised so as to give the court power to realise the property or interest comprised in the security by execution in the suit or proceeding itself without a fresh suit. Power is, however, reserved to relegate the creditor to a fresh suit as a precaution to meet cases of special complication.

Clause 15 gives the court to which a decree is sent for execution concurrent power with the court which passes the decree to correct errors apparent on the face of the decree or order to be executed read with the judgment on which it is based. The executing court is required to communicate the correction to the court which passed the decree.

Clauses 16 and 18(i).—Pleadings are required to sign a decree when they are satisfied that it is in conformity with the judgment, and an appeal based on the ground that a decree has been improperly drawn up is barred except by special leave, unless an objection has been taken at the proper time in this manner in the court passing the decree.

Clause 17.—New rule 2A prohibits the entertainment by the executing court of a plea advanced by a judgment-debtor that the decree-holder had agreed that the decree should not be executed.

Sub-clauses (3) and (4) and clause 9 give the court to which a decree has been transferred the powers conferred by rules 29 and 53 (1) of Order XXI on the court which passed the decree, and the former court is also given the same precedence under section 63 as the latter court.

Sub-clause (5) brings the wording of rule 98 of Order XXI into line with that of section 74 in respect of the words "at his instigation".

The 23rd January, 1927.

ALEXANDER MUDDIMAN.



The Calcutta Gazette

THURSDAY, MARCH 3, 1927.

PART VI.

***Bills introduced in the Council of State and Legislative Assembly,
Reports of Select Committees presented to the Council and
Assembly, and Bills published under Rule 18 of the Indian
Legislative Rules.***

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 25th January 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 5 OF 1927.

*A Bill further to amend the Negotiable Instruments
Act, 1881, for a certain purpose.*

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881, for the purpose of providing that a negotiable instrument originally made payable to bearer shall be negotiable by delivery notwithstanding that it has been indorsed in full ; It is hereby enacted as follows :—

XXVI of
1881.

Short title.

1. This Act may be called the Negotiable Instruments (Amendment) Act, 1927.

Amendment of
section 13, Act
XXVI of 1881

2. In sub-section (1) of section 13 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the said Act),—

XXVI of
1881.

(a) for *Explanation (i)* the following *Explanation* shall be substituted, namely :—

“ *Explanation (i).*—A promissory note, bill of exchange, or cheque is payable to order which is expressed by the maker or drawer thereof to be so payable or to be payable to a particular person and which does not contain words prohibiting transfer or indicating an intention that it shall not be transferable and on which the only or last indorsement, if any, is an indorsement in full ”; and

(b) in *Explanation (ii)* after the word "expressed" the words "by the maker or drawer thereof" shall be inserted.

Amendment of section 16, Act XXVI of 1881.

3. In sub-section (2) of section 16 of the said Act, after the word "indorsee" the words "of a negotiable instrument payable to order" shall be inserted.

Amendment of section 35, Act XXVI of 1881.

4. In section 35 of the said Act, after the words "negotiable instrument" the words "payable to order" shall be inserted.

Amendment of section 37, Act XXVI of 1881.

5. In section 37 of the said Act, after the words "parties thereto are" the words "in the case of a promissory note, cheque or bill of exchange payable to order" shall be inserted.

Amendment of section 39, Act XXVI of 1881.

6. In section 39 of the said Act, after the words "bill of exchange" the words "payable to order" shall be inserted.

Amendment of section 40, Act XXVI of 1881.

7. In section 40 of the said Act, after the words "negotiable instrument" the words "payable to order" shall be inserted.

Amendment of section 41, Act XXVI of 1881.

8. In section 41 of the said Act, after the words "bill of exchange" the words "payable to order and" shall be inserted.

Amendment of section 44, Act XXVI of 1881.

9. In the *Explanation* to section 44 of the said Act, after the word "indorser" and after the word "signers" the words "of a promissory note, bill of exchange or cheque payable to order" shall be inserted.

Amendment of sections 46 and 47, Act XXVI of 1881.

10. In section 46 of the said Act, in the 4th paragraph, and in section 47 of the said Act, after the words "by the delivery thereof" the words "notwithstanding that it has been indorsed" shall be added.

Amendment of section 49, Act XXVI of 1881.

11. In section 49 of the said Act, after the words "negotiable instrument" the words "originally payable to order and subsequently" shall be inserted.

Amendment of section 50, Act XXVI of 1881.

12. In section 50 of the said Act,—

(a) after the words "negotiable instrument" the words "payable to order" shall be inserted; and

(b) in the *Illustrations*, for the words "payable to bearer" the words "payable to order" shall be substituted.

Amendment of section 51, Act XXVI of 1881.

13. In section 51 of the said Act, after the words "negotiable instrument" the words "payable to order" shall be inserted.

Amendment of section 52, Act XXVI of 1881.

14. In section 52 of the said Act, after the words "negotiable instrument", wherever they occur, the words "payable to order" shall be inserted.

Amendment of section 55, Act XXVI of 1881.

15. In section 55 of the said Act, after the words "negotiable instrument" the words "originally payable to order" shall be inserted.

Amendment of section 56, Act XXVI of 1881.

16. In section 56 of the said Act, for the word "which" the words "if payable to order and it" shall be substituted.

Amendment of section 88, Act XXVI of 1881.

17. In section 88 of the said Act, after the word "acceptor" the words "of a bill of exchange" shall be inserted, and after the words "negotiable instrument" the words "payable to order" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to amend the Negotiable Instruments Act, 1881, so as to provide that negotiable instruments including cheques and bills of exchange, which are expressed on the face of them as drawn to bearer, shall not, in any circumstances, lose their character as bearer instruments on account of their having been indorsed. The necessity for the amendment has arisen out of a ruling by the Bombay High Court that under section 50 of the Negotiable Instruments Act, 1881, and the explanation thereto, a bearer bill can be legally changed to an order bill by endorsement. This makes it incumbent upon banks and business houses to examine all endorsements upon bearer instruments, as the character of an instrument, which is payable to bearer in the first instance, can be effectively altered by any subsequent endorsement, and thus throws considerable extra work and responsibility on banks and commercial houses without any compensatory advantage to their constituents or to the general public.

Under section 13, Explanation (ii) of the Negotiable Instruments Act, a bill indorsed in blank is payable to bearer, but under section 49 of the same Act the holder by writing a direction above the indorser's signature may convert the indorsement in blank into an indorsement in full. These provisions under which an order bill which has become bearer may be re-converted into an order bill, will be retained.

BASIL P. BLACKETT.

DELHI :

The 21st January 1927.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY.]

A Bill further to amend the Indian Registration Act, 1908.

WHEREAS it is expedient further to amend the Indian Registration Act, 1908, for certain purposes; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Registration (Amendment) Act, 192

Substitution of new section for section 40, Act XVI of 1908.

2. For section 40 of the Indian Registration Act, 1908 (hereinafter referred to as the said Act), the following section shall be substituted, namely:—

Persons entitled to present wills and authorities to adopt.

“40. (1) The testator or the donor of any authority to adopt may present the will or the authority to any Registrar or Sub-Registrar for registration.

(2) A will or an authority to adopt presented for registration by the testator or donor may be registered in the same manner as any other document.”

Substitution of new section for section 41, Act XVI of 1908.

3. For section 41 of the said Act the following section shall be substituted, namely:—

Registration of wills and authorities to adopt.

“41. (1) Any person claiming as executor or otherwise, and the donee of any authority to adopt or the adoptive son may, after the death of the testator or donor, apply to the Registrar or the Sub-Registrar for registration of the will or the authority.

(2) If the execution of the will or the authority is admitted, it shall be registered if the registering officer is satisfied—

(i) that the will or authority was executed by the testator or donor, as the case may be;

(ii) that the testator or the donor is dead; and

(iii) that the person presenting the will or the authority is entitled to present the same.

(3) If the execution of the will or authority by the testator or donor is denied, the Registrar or Sub-Registrar shall make an order of refusal and endorse the words “Registration refused” on the document presented for registration.

(4) When a Registrar or Sub-Registrar refused to order a will or authority to be registered, any person claiming under such a document, or his representative, assign or agent, may, within thirty days after the date of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the will or authority to adopt to be registered in such office if it is duly presented for registration within thirty days after the passing of such a decree.

(5) The provisions contained in sub-sections (2) and (3) of section 75 shall *mutatis mutandis* apply to the will or the authority to adopt presented for registration in accordance with any such decree and notwithstanding anything contained in this Act the document shall be receivable in evidence in such suit.”

Amendment of sections 42, 43, 44, 45 and 46, Act XVI of 1908.

4. In sections 42, 43, 44, 45 and 46 of the said Act, after the word “Registrar”, wherever it occurs, the words “or Sub-Registrar” shall be inserted.

Amendment of
section 68, Act XVI
of 1908.

5. To section 68 of the said Act the following sub-sections shall be added as sub-sections (3), (4) and (5), namely:—

“(3) on the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard or of his own motion without such notice the Registrar may at any stage—

(a) withdraw any inquiry under section 34 and under section 41 pending before any Sub-Registrar in the district and dispose of the same or transfer the same for trial or disposal to any other Sub-Registrar in the district or

(b) retransfer the same for trial or disposal to the Sub-Registrar from whom it was withdrawn.

When any inquiry has been transferred or withdrawn under clause (a), the Registrar may either re-try or proceed from the point at which it was transferred or withdrawn.

(4) The Inspector-General of Registration may, subject to the provisions of sub-section (3), transfer an inquiry pending before a Registrar to another Registrar.

The provisions of section 75 (2) shall apply to inquiries transferred under sub-sections (3) and (4).”

Amendment of
section 77,
Act XVI of 1908.

6. To section 77 of the said Act the following sub-section shall be added as sub-section (3), namely:—

“(3) Sections 71 to 77 shall not apply to wills and authorities to adopt tendered for registration under sections 40 and 41.”

Amendment of
section 87,
Act XVI of 1908.

7. Section 87 of the said Act shall be renumbered section 87 (1), and the following sub-section shall be added to the section, namely:—

“(2) A document otherwise duly presented and registered under this Act shall not be deemed invalid except on the ground that the whole or some portion of the property to which the document relates has not been shown to exist within the district or sub-district where such document has been presented for registration.”

STATEMENT OF OBJECTS AND REASONS.

Under section 28 of the Indian Registration Act documents referred to therein have to be presented for registration in the office of the Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate. In a case that came up for decision in 1914 the Privy Council held that a parcel of land included in a mortgage deed for the purpose of registering the same in the registration district of Calcutta was not in existence and that it was in fact a fictitious entry. It was therefore held that the registration of the deed was invalid (I. L. R. 41 Calcutta 972). On account of some of the observations made by the Privy Council in this case various pleas for invalidating the registration of documents have been taken in the Courts of law and the principle of the decision of the Privy Council in 41 Calcutta 972 has been unduly extended. (1) Where the property which gave jurisdiction to the Sub-Registrar was in existence but the mortgagor had no title to it and the mortgagee had no knowledge of this fact and there was no collusion between the mortgagor and mortgagee, it was held that the registration of the document was not invalid (I. L. R. 41 Allahabad, page 22). (2) Where the property existed but did not belong to the executant and where it was found that neither the vendor nor the vendee intended that the property so included should be affected by the deed, it was held that the deed was not validly registered (I. L. R. 43 Madras 436, and I. L. R. 48 Calcutta 509). (3) Where the mortgagee knew that the property which gave jurisdiction to the Sub-Registrar did not belong to the executant it was held that such knowledge would invalidate the registration of the document [A. R. Allahabad series 231 (1922)]. (4) Where the property which formed the subject-matter

of a document was situated partly in Benares and partly elsewhere and it transpired that the transferor had no title to the property situated in Benares where the document was registered, it was held that the registration was valid as the transferor was acting in a perfectly *bona fide* manner (4 Patna L. J. 432). Various other distinctions to which it is unnecessary to refer at length have been drawn in the decided cases. A fruitful source of uncertainty in regard to titles has thus been introduced by the decisions of the Privy Council and of the High Courts in India which requires the intervention of the Legislature. Before the Privy Council decision in I. L. R. 41 Calcutta 972 the inclusion in a document of a few cents of land for purposes of registration was a common practice in some parts of the country and the decisions above mentioned are a direct inducement to litigants to set up these pleas. It is therefore proposed in the Bill that except in the case where the property included in the document for conferring jurisdiction to the Sub-Registrar is not in existence, a document duly registered should not be declared invalid.

2. The present procedure in regard to inquiries relating to wills and authorities to adopt it is too cumbrous and dilatory. Under the provisions of the Registration Act, 1908, inquiries into the genuineness or otherwise of wills and authorities to adopt can be made by a Sub-Registrar or a Registrar. If a will is presented for registration to a Sub-Registrar and if its genuineness is denied, he has to take all the evidence tendered by those who support as well as by those who contest the will. If the Sub-Registrar comes to the conclusion that the will is not genuine, and refuses to register the document, an appeal lies to the Registrar under section 73 of the Act. The Registrar is empowered under sections 74, 75 and 76 to summon the witnesses and hold an inquiry *de novo* or to come to a decision on the evidence recorded by the Sub-Registrar. If the Registrar also refuses to order the registration of the document, the party concerned can institute a civil suit, where again the whole of the evidence comes under review. A good deal of time and money is now wasted in inquiries before the Sub-Registrar and the Registrar in regard to questions relating to the execution of wills and the litigating parties and witnesses are harassed by being dragged to Courts on three different occasions regarding the same transaction. The inquiry before the Sub-Registrar in regard to this class of transactions is not of the same thoroughgoing character as a trial before a Civil Court where the rules of evidence are carefully observed by a trained judicial officer. The tendency of the litigants has been not to accept the decisions of the Sub-Registrar and the Registrar but to take the matter to a Civil Court for final decision.

In these circumstances it is proposed in the present Bill that where the will or the authority to adopt is tendered for registration after the death of the testator or the donor, the Registrar or the Sub-Registrar should refuse the registration of the documents if their genuineness is denied by any party interested therein and that the registering officer should await the decision of a Civil Court and should take action under sections 74 and 75 in accordance with the result of the suit.

3. Opportunity has also been taken to amend the sections of the Act relating to the deposit of wills. A testator is now obliged to go all the way to the district headquarters to deposit a will with the Registrar. The present arrangement by which wills can be deposited only with a single officer in each district is obviously inconvenient, and the provisions of the Act regarding the deposit of wills have not been much availed of. It is therefore proposed in the Bill to empower Sub-Registrars also to receive deposits of sealed packets containing wills. There has been a general improvement in the quality of the officers of the Registration Department and there is no reason now why this power should not be extended to Sub-Registrars. In any event under the provisions of the Bill the testator will have the option to deposit a will with the Registrar or with the nearest Sub-Registrar.

4. There is no provision in the principal Act for the withdrawal or transfer of an inquiry from a registration officer when a suitable case for transfer or withdrawal is made out. The registration of the various kinds of documents involve very serious consequences and may cause sometimes considerable pecuniary loss or gain to individuals. Allegations of prejudice, corruption and partiality are sometimes made against individual officers of the department and requests for transfer of inquiries from the file of some of these officers have been made to the controlling officers. But there is no provision in the Act empowering the district Registrar to transfer an inquiry from the file of one Sub-Registrar to that of another. There is no provision in the Indian Registration Act analogous to section 24 of the Code of Civil Procedure in regard to transfer of suits from one Court to another. The present Bill removes this defect and gives authority to the Registrar to transfer or withdraw any inquiry or to transfer the same from one Sub-Registrar to another in the district and the same power is given to the Inspector-General in respect of proceedings pending before the Registrar.

C. DURAISWAMI AIYANGAR.

CHITTORE, the 10th December 1926.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY.]

A Bill to amend the Land Acquisition Act, 1894, for certain purposes.

Short title

WHEREAS it is expedient to amend the Land Acquisition Act, 1894, for certain purposes hereinafter appearing; It is hereby enacted as follows :

Amendment of section 3, Act I of 1894.

1. This Act may be called the Land Acquisition (Amendment) Act, 192 .

2. In clause (e) of section 3 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act), for the words "or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent" the following shall be substituted, namely :—

"holding a rupee capital and having on its directorate a majority of Indian directors, or among its shareholders a majority of Indian shareholders :

Provided that no land shall be acquired for any such Company or Society unless at least half of its capital has been actually subscribed."

Amendment of section 4, Act I of 1894.

3. In sub-section (1) of section 4 of the said Act, after the words "official Gazette" the words "and in at least two of the local vernacular newspapers in the district" shall be inserted, and to the same sub-section the following shall be added at the end, namely :—

"and also inform the owner and the actual occupier of the land about the intended acquisition of the land by serving a notice upon them."

Amendment of section 5, Act I of 1894.

4. In section 5 of the said Act, for the words "refer the dispute to the decision of the Collector or other chief revenue-officer of the district and such decision shall be final" the words "refer the dispute to the decision of an Arbitration Board constituted in the manner hereinafter stated in Part III" shall be substituted.

Amendment of section 5A, Act I of 1894.

5. In sub-section (2) of section 5A of the said Act, for the words "the Local Government", wherever they occur, the words "the District Court" shall be substituted.

Amendment of section 6, Act I of 1894.

6. (1) In the proviso to sub-section (1) of section 6 of the said Act, after the word "unless" the letter and brackets "(a)" shall be inserted, and after the words "by a local authority" the following shall be added namely :—

"(b) the compensation is to be paid by Government and the property to be acquired is in extent more than two acres."

(2) To the same sub-section the following further proviso shall be added, namely :—

"And provided also that no such declaration shall be made unless the purpose for which the land may be needed to be acquired has been approved as a public purpose by a specific resolution of the Legislative Council of the Province in which the land may be situated."

(3) To sub-section (2) of the said section 6 the following shall be added at the end namely :—

“And when any land is to be acquired for a public purpose, the declaration shall state the time within which the acquisition shall be completed and also the time within which the work, for which the land is to be acquired, shall be executed.”

Amendment of section 9, Act I of 1894.

7. In sub-section (2) of section 9 of the said Act, for the word “publication” the word “service” shall be substituted.

Amendment of section 11, Act I of 1894.

8. In section 11 of the said Act, for the words “and shall make an award” the following shall be substituted, namely :—

“and if he and all the persons interested, who have attended in pursuance of the notice mentioned in section 9, agree as to the amount of compensation to be allowed or the apportionment of the compensation, the Collector shall accordingly make an award.”

Amendment of section 12, Act I of 1894.

9. After sub-section (2) of section 12 of the said Act the following sub-section shall be added, namely :—

“(3) In case the Collector and any of the persons interested, who have attended in pursuance of the notice mentioned in section 9, fail to agree as to the amount of compensation to be allowed or the apportionment of the compensation, the Collector shall proceed to ascertain and determine the amount of compensation and its apportionment in the manner stated hereinafter in Part III.”

Amendment of section 15, Act I of 1894.

10. In section 15 of the said Act after the word “Collector” the words “or the Arbitration Board” shall be inserted.

Substitution of new section for section 16, Act I of 1894.

Power to take possession.

11. For section 16 of the said Act the following section shall be substituted, namely :—

“16. (1) When the award delivered by the Arbitration Board is unanimous, the Collector may take possession of the land which shall thereupon vest absolutely in the Government free from all encumbrances.

Provided that such possession shall not be taken unless the amount of the award has been paid to the owner or owners of the land or deposited in the District Court or the Imperial Bank to his or their credit :

Provided also that when the property to be acquired is a house or a dwelling tenement and the award gives to the person to be evicted another house or dwelling accommodation as a substitute, no such possession shall be taken, unless the person to be evicted is actually put in possession of such other house or dwelling accommodation.

(2) In every case in which the compulsory acquisition of land or house-property results in the eviction of more than thirty persons, the award under section 11 or delivered by the Board of Arbitrators as laid down in Part III shall make provision for the housing of evicted persons suitable to their position in life or for securing to them approximately the same convenience and comfort as was available in the house or houses from which they were evicted.”

Amendment of the
Heading to Part
III, Act I of 1894.

12. In Part III of the said Act in the heading, for the word "Court" the words "Arbitration Board" shall be substituted.

Substitution of new
section for section
18, Act I of 1894.

13. For section 18 of the said Act the following section shall be substituted, namely:—

Reference to
Arbitration Board.

"18. If in the inquiry before the Collector under section 11 difference of opinion or dispute arises with respect to any damage or compensation or market-value of land to be acquired under this Act, the person dissatisfied with the offer of the Collector may, by an application to the Collector, express his willingness to get the amount settled by arbitration, and the Collector shall thereupon refer the matter for determination to a Board of five Arbitrators, of whom two shall be appointed by the person whose property is declared to be acquired, two by the party for whom the property may be in the course of acquisition, and one, who shall be the Sir-Panch, shall be elected by the four members of the Panchayat already appointed as above.

The Collector shall then call upon the parties by a written notice to be served upon them to name their respective arbitrators within a fixed period, but which shall not be less than fifteen clear days from the date of the service of the notice.

If on the date so fixed the names of the arbitrators are declared, the Collector shall, by a written notice, inform the arbitrators about their appointment and shall also call upon them within a fixed period to elect a Sir-Panch, and being informed about the election of the Sir-Panch the Collector shall intimate to the Sir-Panch about his appointment as such.

If the parties fail to declare the names of their respective arbitrators, or if the four arbitrators fail to elect the Sir-Panch within the prescribed period, the Collector may himself make the appointments; so also if any member of the Board fails to appear or refuses to act, the Collector shall have the power to appoint any competent person to fill his place."

Substitution of new
section for section
19, Act I of 1894

14. For section 19 of the said Act the following section shall be substituted, namely:—

Collector's state-
ment to the Board.

"19. (1) In making the reference to the Board of Arbitrators, constituted as in the last section, the Collector shall state for the information of the Board in writing under his hand:

- (a) the situation and extent of the land with particulars of any trees, building or standing crops thereon;
- (b) the names of persons whom he has reason to think to be interested in such land;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation offered by the Collector under section 11; and
- (d) If the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

- (2) To the said statement shall be attached a Schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested, respectively.
- (3) The Collector shall fix the date on or before which the Arbitration Board should return the papers, together with its award, and the Collector may extend the time at the request of the Board."

Substitution of new section for section 20, Act I of 1894.

15. For section 20 of the said Act the following section shall be substituted, namely :—

Service of notice.

"20. The Board shall thereupon cause a notice, specifying the place where and the date on which the Board will proceed to decide the dispute, and directing the parties to appear, with their respective evidence, if any, before the Board, to be served upon the following, namely,—

- (a) the person or persons whose property is declared to be acquired ;
- (b) the party for whom the property is in the course of acquisition ; and
- (c) all persons who are to the knowledge of the Board interested in the property except such (if any) of them as have consented without protest to receive payment of the compensation offered by the Collector or Land Acquisition officer."

Substitution of new section for section 22, Act I of 1894.

16. For section 22 of the said Act the following section shall be substituted, namely :—

Proceedings to be in open Court.

"22. Every such proceeding before the Board shall take place in open Court, and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act (as the case may be) in such proceedings.

The Board shall also have the power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and, as far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908."

V of 1908.

Amendment of section 23, Act I of 1894.

17. In section 23 of the said Act,—

- (a) for the word "Court" in sub-sections (1) and (2) the words "the Court or the Board" shall be substituted ; and
- (b) to sub-section (1) the following clauses shall be added, namely :—

"*Seventhly*, the damage resulting from the use or beneficial purpose to which the owner of the land or any person interested in it might have applied the same in the course of events within a reasonable period ;

Eighthly, the value of the land acquired due to its special position in the general configuration of the surroundings or the special adaptability of the land for any potential use or improvement whether by itself or jointly with the land from which it is severed, and also whether such use or improvement could be made by the proprietor of the land in his own right or with the help of the powers of a local authority or Local Government ;

Ninthly, the damage resulting from the loss of profits or any business and good-will in the business materially dependent upon the land acquired ;

Tenthly, the loss on account of suspension of business until other suitable premises are obtained ;

Eleventhly, the cost of removal of the goods or furniture due to eviction ;

Twelfthly, the value of fixtures on the land if taken and the loss on them if not taken."

Amendment of section 24, Act I of 1894.

18. In section 24 of the said Act, for the word "Court" the words "the Court or the Board" shall be substituted.

Substitution of new section for section 25, Act I of 1894.

19. For section 25 of the said Act the following section shall be substituted, namely :—

Amount of award.

"25. The amount awarded by the Board shall not exceed the amount claimed or be less than the amount offered by the Collector under section 11."

Substitution of new section for section 26, Act I of 1894.

20. For section 26 of the said Act the following section shall be substituted, namely :—

Form of award.

"26. On the close of the inquiry the Arbitrators or a majority of them shall deliver a full and complete award in respect of the matter referred to them and shall therein specify (as the nature of the case may require) the amount awarded under the *first* clause of sub-section (1) of section 23 and also the amounts, if any, respectively awarded under each of the other clauses of the same sub-section, the persons entitled to the same, and the proportion in which they are so entitled, together with the grounds of awarding each of the said amounts. It shall be in writing signed by the Arbitrators or a majority of them, as the case may be.

If the award is not unanimous, the Arbitrators who differ from the majority may record their dissenting opinions with reasons, if any. The dissenting minutes shall also form part of the record.

Such award shall be delivered over to the Collector who shall certify the same over his signature and it shall then become final.

Such an award shall be conclusive evidence of the true area and value of the land, and the apportionment of the compensation among the persons interested.

In case of failure by the Board of Arbitrators to deliver any award within the period described or extended from time to time by the Collector, the Collector shall have the power to make an award which shall be binding on all the parties as if such award were made by the Board of Arbitrators itself.

Every such award shall be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2) and section 2, clause (9) respectively, of the Civil Procedure Code, 1908.

After the award has been certified by the Collector, he shall communicate the same to the parties by a written notice."

V of 1908.

Substitution of new section for section 27, Act I of 1894.

21. For section 27 of the said Act the following section shall be substituted, namely :—

Costs.

"27. Every award shall state the amount of costs incurred in the proceedings under this part and by what persons and in what proportions they are to be paid.

When the offer of the Collector or Land Acquisition officer is not upheld the costs shall ordinarily be paid by the Collector, unless the Board shall be of opinion that the claim of the other party was so extravagant or that the party was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Rules in the matter of the fees of the Arbitrators and the levying of process and *ihatta* as also the service of summons, etc., shall be made by the highest judicial authority of each Province."

Amendment of section 28, Act I of 1894.

22. In section 28 of the said Act, for the word "Court" occurring for the first and second time the words "Board of Arbitrators" shall be substituted.

Amendment of section 31, Act I of 1894.

23. In sub-section (2) of section 31 of the said Act, the words "to which a reference under section 18 would be submitted" shall be omitted.

Amendment of section 39, Act I of 1894.

24. In section 39 of the said Act, for the words "Local Government" the words "local Legislature" shall be substituted.

Omission of section 40, Act I of 1894.

25. The whole of section 40 of the said Act shall be omitted.

Amendment of section 41, Act I of 1894.

26. In section 41 of the said Act,—

- (a) for the words "Local Government" the words "local Legislature" shall be substituted;
- (b) the words "or on the report of the officer making an inquiry under section 40" shall be omitted; and
- (c) after clause (5) the following clause shall be added, namely:—

"(6) such other conditions as the local Legislature may lay down in that behalf."

Amendment of section 43, Act I of 1894.

27. To section 43 of the said Act the following proviso shall be added, namely:—

"Provided that no Local Government or the Government of India shall enter into or bind itself by an agreement with any railway company or other company to provide land for the company except with the approval of the local or the Indian Legislature, as the case may be."

Insertion of new sections 48A, 48B, and 48C in Act I of 1894.

28. After section 48 of the said Act the following sections shall be inserted, namely:—

Disposal of land by Government, Corporation, Company or Society

"48A. When any land is acquired for Government or a Corporation or a Company or Society and afterwards the whole or any portion of such land is found to be not required on account of the abandonment or whole or partial failure of the object for which it was acquired, or any other cause, the Government or the said Corporation, Company or Society shall resell or lease the land to the person from whom the same was originally acquired, or his representative in interest, or, in case of his refusal, to any adjoining owner, for a price or rent or upon terms agreed to between the Government or the said Corporation, Company or Society on the one hand, and the person so entitled to pre-emption on the other, or decided by an Arbitration Board in the manner stated in Part III.

Disposal of
surplus portion
of land.

48B. When any land is acquired for Government or Corporation or Company or Society and afterwards the whole of such land is not needed for the purpose for which it was acquired the surplus portion of the acquired land shall be resold or leased by Government or such Corporation, Company or Society to the person from whom the same was originally acquired, or his representative in interest, or in case of his refusal to any adjoining owner, for a price or rent or upon terms agreed to between the Government or the said Corporation, Company, or Society on the one hand, and the person entitled to pre-emption on the other, or decided by an Arbitration Board in the manner stated in Part III.

Determination of
surplus land.

48C. In every case of a dispute as to whether a piece of land compulsorily acquired is surplus or not within the meaning of the above section, it shall be presumed that the land was surplus if it is proved that it was devoted permanently to some object which was not a purpose of the undertaking for which the land was acquired."

Amendment of
section 49, Act I
of 1894.

29. For sub-section (1) of section 49 of the said Act the following sub-section shall be substituted, namely:—

Acquisition of part
of land, house or
building.

"49. (1) Where by reason of only a portion of a land, a house or a manufactory being compulsorily acquired any other portion of the land contiguously situated and belonging to the same owner is likely to be injuriously affected in a material degree, the owner shall have the right to call upon the party acquiring the land to acquire also the land so injuriously affected:

Provided that the District Court, on an application by the owner, shall have the power to determine the proper measure of such additional acquisition."

Amendment of
section 50, Act I
of 1894.

30. In sub-section (2) of section 50 of the said Act, after the word "Court" the words "or the Board of Arbitrators" shall be inserted.

Substitution of
new section for
section 54, Act I
of 1894.

31. For section 54 of the said Act the following section shall be substituted, namely:—

Appeal.

"54. An appeal against the decision of the Board of Arbitrators shall lie to the District Court, provided that no such appeal shall lie in case the decision of the Arbitrators is unanimous.

An appeal against the order of the District Court shall lie to the High Court."

STATEMENT OF OBJECTS AND REASONS.

The Bill is intended to minimise the inequity and consequent discontent which marks the operation of the Land Acquisition Act. The first and the chief ground of discontent is of course the compulsory nature of acquisition. This, however, can hardly be avoided. Cases will occur where land, howsoever useful to and cherished by private owners, will have to be acquired for uses and purposes which may have a decidedly public and beneficent aspect, and for that reason a superior claim over private need or sentiment. But much of the objection to compulsory acquisition can be tempered by (1) the establishment of a *bonâ fide* public purpose making the acquisition morally inevitable, and (2) the payment of a really adequate compensation, in one or more ways, to the person deprived of the land acquired. As regards the first, the Bill proposes to give the inquiry under Part III the character of a really public inquiry and that also a judicial inquiry; so that even persons not directly connected with the land itself may still have a chance to question or challenge the alleged public usefulness of the work or scheme in whose interest the acquisition may be proposed.

As regards compensation, public opinion is severely adverse to the arbitrary powers vested in Land Acquisition officers by section 11. It is rightly believed that these officers, being paid servants of Government, are naturally inclined to minimise the amount of compensation. The efficiency of the officers is supposed to vary in inverse proportion to the amounts granted by the awards. The awards are no doubt open to be challenged in (to appeals) Districts Courts. But District Judges, besides being paid officers of Government, are in most cases ignorant of local conditions which are really decisive in the proper assessment of compensation for the lands to be acquired. Then again, it is always an unequal fight between Land Acquisition officers, backed by the legal and financial resources of Government, and private owners, who stumble over a number of technicalities, even preliminary to the appeal, and who as a rule find the appeals a costly affair. Success in these appeals cannot be gained without a material sacrifice of the amount of compensation granted, and failure means ruin in the case of poor individuals.

The best method of fixing the amount of compensation is believed to be by a Panchayat or arbitration. An equal number of representatives of either party choosing, if necessary, a Sir-Panch, who gives the casting or decisive vote, are bound in their deliberation to take into consideration every factor favourable or unfavourable to either party to the dispute; and to focus, in their decision, the net result of these considerations. There is no reason why the method of arbitration should prejudice the interests of Government or the party in whose interest the acquisition is proposed rather than those of the owner of the land acquired.

The greatest advantage of the method of arbitration, however, remains to be told. And it is that formal submission to arbitration involves a legal estoppel of all parties submitting to it, when the award is unanimous and peremptorily and automatically stops all wasteful litigation. The justice or injustice which the parties get is got at the hands of their own elected representatives, and that removes all ethical as well as legal justification for complaint or discontent.

Some of the provisions, introduced by the Bill, are taken in the main from the provisions which actually formed part of the Land Acquisition Acts of 1870, and were omitted from the Act of 1894 without sufficient cause being shown therefor. In fact the omission is very suspicious, as it obviously favours the interest of Government or capitalists and Companies and Societies who move Government to acquire the land for their use. Official acquisition of land is in many cases the last resort of the unfair-minded land-grabber.

Provisions similar in spirit to those sought to be reintroduced by this Bill are to be found in some other legal enactments also; particularly the laws of England.

The power reserved to the Land Acquisition officer at the different stages of the land acquisition proceedings to deliver a binding award in case of failure of arbitration for one cause or another, is sufficient precaution against undue delay or inconclusive proceedings of Arbitrators.

The Bill, without impairing the usefulness or the efficiency of the Act in any material particular, only helps to make its operation less unpopular because more equitable.

POONA,

N. C. KELKAR.

The 6th December 1926.



The Calcutta Gazette

THURSDAY, MARCH 10, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY.]

A Bill further to amend the Indian Succession Act, 1925.

WHEREAS it is expedient further to amend the Indian Succession Act, 1925 ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Succession XXXIX of
(Amendment) Act, 192 . 1925.

Amendment of
section 372, Act
XXXIX of 1925.

2. After sub-section (2) of section 372 of the Indian XXXIX of
Succession Act, 1925, the following sub-section shall be 1925.
added, namely :—

“(3) Application for such a certificate may be made in respect of any debt or debts due to the deceased creditor or in respect of portions thereof. But nothing herein contained shall be deemed to allow separate or successive applications being made in respect of portions of the same debt, whether by the same or a different heir.”

STATEMENT OF OBJECTS AND REASONS.

There is serious conflict between the different High Courts as to whether certificate can be applied for or granted in respect of a portion of a debt. The Allahabad High Court holds that this can not be done (*Ghafur Khan vs. Kalandari Begum*, 33 All., page 327) while the Calcutta High Court holds the contrary of a more equitable view (*Annapurna Dasee vs. Nalini Mohan Das*, 42 Cal., page 10). An important question of far-reaching effects is involved and it is necessary that it may be set at rest. Justice Karamat Hussain has in *Ghafur Khan's* case referred to the difficulty likely to be caused by the Allahabad High Court view on pages 333-4. It is well known that dowers are very often fixed at enormous amounts which can never be recovered. Suppose the dower fixed is 11 lacs, as in the case of *Muhammad Ali vs. Puttan Bibi* (19 All., page 129). The woman dies leaving her husband, father and mother as heirs. The husband himself is entitled to half. Her assets may be worth only one lac or some less. Is it a fact that the husband should prevent the father and the mother from realising what they can, by urging that they should first pay succession certificate duty on 11 lacs? Similar difficulties may arise in case of other debts where part only may be recoverable owing to the scanty assets of the debtors. The Calcutta view seems more reasonable and this Bill is meant to give effect to that view.

MUHAMMAD YAKUB.

The 15th November, 1926.



The Calcutta Gazette

THURSDAY, MARCH 17, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 11th February, 1927 :—

— COUNCIL OF STATE BILL NO. 4 OF 1927.

A Bill to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India.

WHEREAS it is expedient to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India ; it is hereby enacted as follows :—

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Indian Lighthouse Act, 1927 .

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Customs-collector" means a Customs-collector appointed under the Sea Customs Act, 1878, VIII of 1878, and includes any person appointed by the Governor General in Council to discharge the functions of a Customs-collector under this Act;
- (b) "district" means an area defined as a district for the purposes of this Act under section 3;
- (c) "general lighthouse" means any lighthouse which the Governor General in Council may, by notification in the Gazette of India, declare to be a general lighthouse for the purposes of this Act;
- (d) "lighthouse" includes any light-vessel, fog-signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships;
- (e) "local lighthouse" means any lighthouse which is not a general lighthouse;
- (f) "local lighthouse authority" means a Local Government, local authority or other person having the superintendence and management of a local lighthouse;
- (g) "owner" includes any part-owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned;
- (h) "the Merchant Shipping Acts" means the Merchant Shipping Acts, 1894—1925;
- (i) "port" means any port, as defined in the Indian Ports Act, 1908, to which that Act extends; XV of 1908. and
- (j) words and expressions used in this Act and not otherwise defined have the same meanings respectively as in the Indian Merchant Shipping Act, 1923. XXI of 1923.

Appointment of officers.

3. The Governor General in Council may, by notification in the Gazette of India,—

- (a) define areas to be districts for the purposes of this Act;
- (b) appoint a person to be the Superintendent of Lighthouses in each district;
- (c) appoint a person to be the Chief Inspector of Lighthouses in British India; and
- (d) appoint persons in each district to be District Inspectors of Lighthouses.

Advisory Committees.

4. (1) The Governor General in Council shall appoint a Central Advisory Committee for the purpose of advising him in regard to—

- (a) the erection or position of lighthouses or of any works appertaining thereto;
- (b) additions to, or the alteration or removal of, lighthouses;
- (c) the variation of the character of any lighthouse or of the mode of use thereof;
- (d) the cost of any proposals relating to lighthouses; or
- (e) the making or alteration of any rules or rates of dues under this Act.

(2) The Governor General in Council may, if he thinks fit, appoint an Advisory Committee for any district for the purpose of advising in regard to any of the matters specified in sub-section (1) in so far as the interests of the district are affected thereby.

(3) Advisory Committees shall consist of persons representing interests affected by this Act or having special knowledge of the subject-matter thereof, and the Central Advisory Committee shall include at least one member of each District Advisory Committee elected by that Committee.

GENERAL LIGHTHOUSES.

Management of general lighthouses by the Governor General in Council and delegation of management.

5. (1) The superintendence and management of all general lighthouses are vested in the Governor General in Council.

(2) The Governor General in Council may require any local lighthouse authority to undertake the superintendence and management of any general lighthouse situated in or adjacent to the local limits within which the authority exercises its powers, and shall pay to the authority such sums to defray the cost of superintendence and management as he may determine.

LOCAL LIGHTHOUSES.

Power to inspect local lighthouses.

6. (1) The Chief Inspector of Lighthouses may, at any time, and any Superintendent or District Inspector of Lighthouses may, if authorised in this behalf by a general or special order in writing of the Governor General in Council, enter upon and inspect any local lighthouse and make such inquiries in respect thereof or of the management thereof as he thinks fit.

(2) Every person having the charge of, or concerned in the management of, any lighthouse shall be bound to furnish to any officer authorised by or under subsection (1) to inspect the lighthouse all such information regarding the same as the officer may require.

(3) Every local lighthouse authority shall furnish to the Governor General in Council all such returns and other information in respect of the lighthouses under its supervision and management, or of any of them, as he may require.

Control of local lighthouses by the Governor General in Council.

7. (1) If, after an inspection under section 6 or such other inquiry as he thinks fit, the Governor General in Council is satisfied that a direction under this sub-section is necessary or expedient for the safety, or otherwise in the interests, of shipping, he may direct any local lighthouse authority--

(a) to remove or discontinue or to refrain from moving or discontinuing any lighthouse under its superintendence and management or to make or refrain from making any variation in the character or mode of use of any such lighthouse, or

(b) to erect, place or maintain, or to refrain from erecting, placing or maintaining, any lighthouse within the local limits within which the local lighthouse authority exercises its powers.

(2) A local lighthouse authority shall not erect, place, remove or discontinue any lighthouse or vary the character or mode of use of any lighthouse, unless it has given to the Governor General in Council at least one month's notice in writing of its intention so to do:

Provided that, in cases of emergency, a local lighthouse authority may take such action as it deems necessary and shall give immediate notice of the same to the Governor General in Council and, so far as is possible, to all shipping approaching or in the vicinity of the lighthouse.

(3) If a local lighthouse authority—

- (a) fails to comply with any direction made under sub-section (1), or
- (b) fails to exercise or perform, or exercises or performs in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of lighthouses conferred or imposed upon it by or under any law for the time being in force, or
- (c) fails to make adequate financial provision for the performance of any such duty,

the Governor General in Council may, by order in writing, require the local lighthouse authority to comply with the direction, or to make arrangements to his satisfaction for the proper exercise of the power or performance of the duty, or to make financial provision to his satisfaction for the performance of the duty, as the case may be, within such period as he may specify.

(4) If the local lighthouse authority fails to comply with an order made under sub-section (3) within the specified period or within such further time as the Governor General in Council may allow, the Governor General in Council may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local lighthouse authority shall be liable to repay to the Governor General in Council any expenditure incurred by him in so doing.

Management of
local lighthouses by
the Governor
General in Council.

8. The Governor General in Council may, at the request of a local lighthouse authority, undertake the superintendence and management of any local lighthouse on its behalf, and the local lighthouse authority shall pay to the Governor General in Council such sums to defray the cost of superintendence and management as may be agreed.

LIGHT-DUES.

Levy and
collection of
light-dues.

9. For the purpose of providing or maintaining or of providing and maintaining lighthouses, whether within or beyond the limits of British India, for the benefit of ships voyaging to or from British India or between ports in British India, the Governor General in Council shall, subject to the provisions of this Act, cause light-dues to be levied and collected in respect of every ship arriving at or departing from any port in British India.

Rates of light-
dues leviable.

10. (1) The Governor General in Council may, by notification in the Gazette of India, prescribe rates, not exceeding two annas per ton, at which light-dues shall be payable, and may prescribe different rates for different classes of ships, or for ships of the same class when in use for different purposes or in different circumstances.

(2) Light-dues payable in respect of a ship shall be paid by the owner or master of the ship on its arrival at, and before its departure from, any port in British India:

Provided that, if light-dues have been paid in accordance with the provisions of this Act in respect of any ship, no further dues shall become payable in respect of that ship for a period of thirty days from the date on which the dues so paid became payable.

Receipts for
light-dues.

11. Light-dues shall be paid to the Customs-collector who shall grant to the person paying the same a receipt in writing specifying—

- (a) the port at which the dues have been paid;
- (b) the amount of the payment;
- (c) the date on which the dues became payable; and
- (d) the name, tonnage and other proper description of the ship in respect of which the payment is made.

Ascertainment of
tonnage.

12. (1) For the purpose of the levy of light-dues, a ship's tonnage shall be reckoned as under the Merchant Shipping Acts for dues payable on a ship's tonnage, with the addition required under section 85 of the Merchant Shipping Act, 1894, with respect to deck cargo.

57 & 58
Vict., C. 60.

(2) In order to ascertain the tonnage of any ship for the purpose of levying light-dues, the Customs-collector may—

(a) if the ship is registered under any law for the time being in force in British India or under the law of any foreign country in respect of which an Order in Council has been made under section 84 of the Merchant Shipping Act, 1894, that ships of that country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers (any such ship being hereafter in this section referred to as a registered ship), require the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same for inspection and, if such owner, master or other person refuses or neglects to produce the register or papers, as the case may be, or otherwise to satisfy the Customs-collector as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained ;
or

57 & 58
Vict., C. 60.

(b) if the ship is not a registered ship and the owner or master fails to satisfy the Customs-collector as to the true tonnage thereof according to the mode of measurement prescribed by the law for the time being in force for regulating the measurement of registered ships, cause the ship to be measured and the tonnage thereof to be ascertained according to such mode.

(3) If any person refuses or neglects to produce any register or other papers or otherwise to satisfy the Customs-collector as to the true tonnage of any ship when required to do so under this section, such person shall be liable to pay the expenses of the measurement of the ship and of the ascertainment of the tonnage, and, if the ship is a registered ship, shall further be punishable with fine which may extend to one thousand rupees.

Recovery of light-
dues, expenses and
costs.

13. (1) If the owner or master of any ship refuses or neglects to pay to the Customs-collector on demand the amount of any light-dues or expenses payable under this Act in respect of the ship, the Customs-collector may seize the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of the dues or expenses, together with the costs of the seizure and detention, is paid.

(2) If any part of such dues, expenses or costs remains unpaid after the expiry of five days following the date of the seizure, the Customs-collector may cause the ship or other thing seized to be sold, and with the proceeds of the sale may satisfy the dues, expenses or costs remaining unpaid, together with the costs of the sale, and shall repay the surplus, if any, to the person by whom the same were payable.

Refusal of
port-clearance.

14. The officer whose duty it is to grant a port-clearance for any ship shall not grant the port-clearance until the amount of all light-dues, expenses and costs payable in respect of the ship under this Act and of any fines imposed thereunder has been paid, or until security for the payment thereof has been given to his satisfaction.

Determination of disputes as to liability for payment.

15. If any dispute arises as to whether light-dues, expenses or costs are payable in respect of any ship under this Act or as to the amount of such dues, expenses or costs, the dispute shall, on application made in this behalf by either of the disputing parties, be heard and determined by a Presidency Magistrate or Magistrate of the first class having jurisdiction at the place where the dispute arises, and the decision of such Magistrate shall be final.

Light-dues payable at one port recoverable at another.

16. (1) If the master of any ship in respect of which any light-dues are payable at any port causes the ship to leave such port without having paid the same, the Customs-collector at that port may by writing require the Customs-collector at any other port in British India to which the ship may proceed or in which she may be to recover the dues remaining unpaid.

(2) Any Customs-collector to whom such a requisition is directed shall proceed to levy such sum as if it were payable under this Act at the port at which he is the Customs-collector, and a certificate by the Customs-collector at the port at which the light-dues first became payable, stating the amount payable, shall be sufficient proof in any proceeding under section 13 or section 15 that such amount is payable.

Penalty for evading payment of light-dues.

17. (1) If the owner or master of a ship evades or attempts to evade the payment of any light-dues, expenses or costs payable in respect of the ship under this Act, he shall, on conviction by a Presidency Magistrate or Magistrate of the first class having jurisdiction in any port to which the vessel may proceed or in which she may be found, be punishable with fine which may extend to five times the amount of the sum payable.

(2) In any proceeding before a Magistrate in a prosecution under sub-section (1), any such certificate as is mentioned in sub-section (2) of section 16, stating that the owner or master has evaded such payment, shall be sufficient proof of the evasion, unless the owner or master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

Exemption from payment of light-dues.

18. The following ships shall be exempted from the payment of light-dues under this Act, namely :—

- (a) any ship belonging to His Majesty or the Government or to a foreign Prince or State and not carrying cargo or passengers for freight or fares; and
- (b) any ship of a tonnage of less than thirty tons;

and the Governor General in Council may, by notification in the Gazette of India, exempt any other ships or classes of ships or ships performing specified voyages from such payment, either wholly or to such extent only as may be specified in the notification.

Refund of excess payments.

19. Where light-dues have been paid in respect of any ship in excess of the amount payable under this Act, no claim to refund of such excess payment shall be admissible, unless it is made within three months from the date of each payment.

ACCOUNTS.

Accounts, etc.

20. (1) The Governor General in Council shall cause to be maintained a separate account of all amounts received by way of light-dues, expenses, costs and fines under this Act and of all expenditure incurred for the purposes of this Act, and shall cause such account to be laid before the Central Advisory Committee, as soon as possible, after the close of each financial year.

(2) The Governor General in Council shall cause to be laid before the Central Advisory Committee before the close of each financial year a statement of the estimated receipts under, and expenditure for the purposes of, this Act during the forthcoming year.

RULES.

Powers to make rules.

21. (1) The Governor General in Council may make rules consistent with this Act to carry into effect the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or on any of the following matters, namely :—

- (a) the powers and duties of the Chief Inspector of Lighthouses and of Superintendents and District Inspectors of Lighthouses ;
- (b) the procedure and conduct of business of Advisory Committees constituted under this Act ;
- (c) the rate of travelling and subsistence allowance payable to members of Advisory Committees ; and
- (d) the period in respect of which and the form in which the separate account referred to in sub-section (1) of section 20 shall be kept and the forms in which that account and the statement referred to in sub-section (2) of that section shall respectively be presented to the Central Advisory Committee.

REPEALS.

Repeals.

22. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

(See section 22.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1879	IX	The Burma Coast-lights Act, 1879.	The whole.
1904 ...	IX	The Madras Coast-lights Act, 1904.	Do.
1915 ...	II	The Sind Coast-lights Act, 1915	Do

STATEMENT OF OBJECTS AND REASONS.

1. Under the Devolution Rules, "lighthouses (including their approaches), beacons, lightships and buoys" are a central subject, but are now administered by Local Governments as agents of the Government of India under the rules made under section 45A of the Government of India Act. Statutory powers are also vested in Local Governments by the Burma, Madras and Sind Coast-lights Acts. The object of the present Bill is to vest in the Governor General in Council the statutory powers necessary for the discharge of his responsibilities in order that this subject may, in future, be directly administered by the Central Government.

2. Under the present system of administration there are considerable difference from province to province, not only in the method of administration, but also in finance. Light-dues are levied in some provinces, but not in others, and, where levied, they vary in the method of calculation, as well as in amount. In Madras, there is a separate Coast-lights fund, to which light-dues are credited and from which all expenditure on coast-lights is met. The Burma light-dues, on the other hand, are credited to Central revenues, and expenditure is met from grants voted by the Legislative Assembly. In Sind, again, light-dues are also credited to Central revenues, and expenditure is met from grants voted

by the Legislative Assembly. On the other hand, all lighthouses in the Bombay Presidency proper, except the lights of Bombay Port and its approaches, are financed from the Bombay Minor Ports funds, to which passing trade contributes nothing. The whole cost of the Perim lights and part of the cost of the Aden lights are borne by Central revenues, and the Orissa lights are a charge partly on Central and partly on Provincial revenues.

3. The general principles of the Bill are based on Part XI of the Merchant Shipping Act, 1894, and the Merchant Shipping (Mercantile Marine Fund) Act, 1898, and parts of the existing Coast-lights Acts are also incorporated. "Light house" is defined so as to include "any light vessel, fog-signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships". This definition covers wireless beacons, wireless fog-signals and other direction giving apparatus used for the guidance of ships. All lighthouses will be classified as either—

- (a) coast or general lighthouses, or
- (b) port or local lighthouses.

The superintendence and management of all general lighthouses will be vested in the Governor General in Council. Local lighthouses will be administered by a local lighthouse authority, which will usually be a port authority. Certain powers of inspection and control over local lighthouses are reserved to the Governor General in Council, as being the general lighthouse authority. Provision is also made for the management of general lighthouses by a local authority, or of local lighthouses by the Governor General in Council, by arrangement and on payment. This would be a matter of convenience and economy.

4. For the purposes of lighthouse administration, it is proposed that the coasts of India should be divided into districts, based on the major ports. The Port Officer of the major port would be the Superintendent of Lighthouses in the district, and would be in executive control of the general lighthouse administration. For technical supervision, the Bill provides for the appointment of a Chief Inspector of Lighthouses in British India, and also for the appointment of District Inspectors, who would be engineers, with practical experience of lighthouse engineering.

5. It is intended that lighthouse expenditure should no longer be a charge on general revenues, but should be covered by dues levied on shipping. The Bill, therefore, provides for the maintenance of a separate account of lighthouse receipts and expenditure, and it is intended that this account should be maintained on commercial lines, showing that expenditure is covered by dues, and that receipts from dues are spent on lighthouse services. The Bill also provides for the appointment of a Central Advisory Committee, which will consist of persons representing the interests affected or having special knowledge of the subject. The Central Advisory Committee will correspond in constitution and functions to the Advisory Committee on New Lighthouse Works in the United Kingdom. The annual accounts and budget will be placed before them, and they will be asked to advise on new works, the position and character of existing lighthouses, the rates of light-dues, rules, and on the lighthouse system generally. District Advisory Committees to advise on local questions may also be appointed, if desirable.

6. The cost of local lighthouses will ordinarily be met, as at present, from port dues levied under the Indian Ports Act, 1908. But clause 9 of the Bill permits receipts from light-dues to be used "for the purpose of providing or maintaining lighthouses.....for the benefit of ships voyaging to or from British India or between ports in British India". And grants from the light-dues may be given for the provision or maintenance of local lighthouses which are also used as marks by passing trade.

7. The Bill extends to the whole of British India, which is the limit of the legislative power of the Indian Legislature. But in addition to lighthouses in British India, the Government of India already administer lighthouses in the Persian Gulf and in the southern part of the Red Sea. And it is possible that they may also be asked to administer the colonial lights at Minicoy and in Ceylon, which are now managed direct by the Board of Trade. It is possible also that some arrangement may be made in respect of lighthouses in Indian States similar to the arrangement which already exists in Madras. In that event, it may be desired to bring all such lighthouses into a single administration with a common account of revenue and expenditure. In order, therefore, to cover a possible extension on these lines, clause 9 of the Bill has been drafted so as to permit the expenditure of light-dues levied in British India on lighthouses "whether within or beyond the limits of British India," provided always that such lighthouses are "for the benefit of ships voyaging to or from British India, or between ports in British India."

8. Clause 10 of the Bill provides that every ship arriving at or departing from a port in British India shall pay a light-due, not exceeding two annas per net register ton, subject to a periodical limit of thirty days. Different rates may be prescribed for different classes of ships. Clause 18, following the existing Acts, exempts altogether ships of less than thirty tons. It also empowers the Governor General in Council by notification to exempt any ships or classes of ships or ships performing specified voyages from payment of dues either wholly or in part.

9. The powers taken in clauses 6 and 7 of the Bill for the inspection and control of local light-houses follow generally the powers of general light house authorities in sections 652 and 653 of the Merchant Shipping Act, 1894. In the United Kingdom, however, a local lighthouse authority cannot erect or remove any lighthouse, buoy or beacon or vary its character without the previous sanction of the general lighthouse authority. But the control of the general lighthouse authorities in the United Kingdom is much closer than is possible or desirable in a country of great distances like India. The Bill, therefore, only requires that one month's previous notice of any change should be given to the Governor General in Council, and also empowers the local lighthouse authority to take immediate action, without previous notice, in cases of emergency.

Statutory power to inspect a local lighthouse is vested only in the Chief Inspector of Lighthouses. No Superintendent or District Inspector may inspect without the order in writing of the Governor General in Council.

The Bill further provides that a direction by the Governor General in Council under clause 7 shall only be made after inspection or such other inquiry as he thinks fit, when he is satisfied that it is necessary for the safety, or otherwise in the interests, of shipping.

10. The rest of the Bill requires no detailed explanation.

G. L. CORBETT.

The 8th February, 1927.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 25th January, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 6 OF 1927.

A Bill to amend the Indian Securities Act, 1920, for certain purposes.

WHEREAS it is expedient to amend the Indian Securities Act, 1920, for certain purposes hereinafter appearing; It X of 1920. is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Securities (Amendment) Act, 192 .

Amendment of section 10, Act X of 1920.

2. (1) In sub-section (1) of section 10 of the Indian Securities Act, 1920 (hereinafter referred to as the said X of 1920. Act), after the word "lost" in both places where it occurs the word "stolen" shall be inserted, and after the word "loss" in both places where it occurs the word "theft" shall be inserted; and in sub-section (2) of the same section after the word "loss" the word "theft" shall be inserted.

(2) To the same section after sub-section (3) the following sub-sections shall be added, namely :—

"(4) If at any time before the Government becomes discharged under the provisions of this Act from liability in respect of any security the whole of which is alleged to have been lost, stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled.

(5) Notwithstanding anything contained in the Indian Succession Act, 1925, a succession certificate granted under Part X of that Act shall not confer upon the holder thereof any right in respect of a Government security which the Government would not have been bound to recognise in favour of the person in respect of whose estate the certificate has been granted." XXXIX of 1925.

Substitution of new section for section 18, Act X of 1920.

3. For section 18 of the said Act the following section shall be substituted, namely :—

Discharge in other cases.

"18. Save as otherwise provided in this Act, the Government shall be discharged from all liability in respect of a Government security after the lapse of six years—

(a) from the date on which the amount due on the security became payable, or

(b) in the case of a security in lieu of which a duplicate security has been issued under section 10, from the date of the publication under sub-section (3) of that section of the list in which the security is first mentioned, or

(c) in the case of a security in lieu of which a renewed security has been issued under section 12 or section 13, or a new security or securities has or have been issued upon conversion, consolidation or subdivision under section 15, from the date of the issue thereof."

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to limit the liability of Government in respect of discharged loans and to prevent recourse to the Indian Succession Act, 1925, to evade the safeguards attached by the Indian Securities Act, 1920, to the issue of duplicate Notes.

The elaborate safeguards prescribed in section 10 of the Indian Securities Act for the protection of Government and other claimants, before a duplicate of a lost security can be issued, can be circumvented by a claimant on a lost Government security which stands in the name of a deceased person, if he obtains a certificate under the Indian Succession Act that he is the owner of the particular security. As the law now stands, Government will in such case be compelled without further inquiry to honour the certificate and to issue a duplicate of the lost security. Section 10 is also incomplete at present as it does not deal with cases where securities have been stolen. Again, under section 18 of the Act, Government remains liable to pay the principal as well as the interest on a discharged loan up to the date of the demand and it is optional with the owner of a Promissory Note to defer the demand as long as he pleases without entitling Government to plead limitation. The Bill proposes to remedy these defects by an amendment of the above sections of the Act.

BASIL P. BLACKETT.

The 20th November, 1926.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 25th January, 1927:—

LEGISLATIVE ASSEMBLY BILL NO. 7 OF 1927.

A Bill further to amend the Code of Civil Procedure, 1908, for certain purposes.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1927.

Substitution of new section for s. 115 of Act V of 1908.

2. For section 115 of the Code of Civil Procedure, 1908, the following section shall be substituted, namely:— V of 1908.

Revision.

“115. (1) The High Court may call for the record of any suit or proceeding in which a decree or order from which no appeal lies has been made by a Court subordinate to such High Court, and

(a) in the case of any such decree, if the subordinate Court appears—

(i) to have exercised a jurisdiction not vested in it by law, or

(ii) to have failed to exercise a jurisdiction so vested, or

(iii) to have acted in the exercise of its jurisdiction illegally or with material irregularity, or

(b) in the case of any such order, if the subordinate Court appears to have exercised or to have decided to exercise a jurisdiction not vested in it by law, may make such order as the High Court thinks fit.

Explanation.—For the purposes of this sub-section—

(a) an erroneous exercise of discretion in a matter of procedure shall not be deemed to be an illegal act or a material irregularity, and

(b) a finding or decision by a subordinate Court that it has jurisdiction shall be deemed to be an order within the meaning of clause (b).

(2) Nothing in this Code, and nothing in the Letters Patent of any High Court, shall be deemed to confer upon any High Court any power to revise any decree or order which such Court is not empowered to revise under this section.”

STATEMENT OF OBJECTS AND REASONS.

In Chapter 28 of their Report the Civil Justice Committee recommend—

- (1) that the law should be amended so as to make it clear that the revisional powers of a High Court do not extend beyond the limits of section 115 of the Code of Civil Procedure, save and except in cases where special statutory provision is made to the contrary;
- (2) that section 115 itself should be amended with the following objects in view:—
 - (i) so as to restrict the exercise of revisionary power in the case of interlocutory orders to cases in which a subordinate Court appears to have exercised or decided to exercise a jurisdiction not vested in it by law;
 - (ii) so as to eliminate the use of the word “case” as used in the existing section; and
 - (iii) so as to make more clear the real intention of the section.

As regards the first recommendation, the Indian Legislature is incompetent to enact a completely effective provision of the nature contemplated, as it involves an amendment of section 107 of the Government of India Act, which can only be done by Parliamentary legislation. It was, however, suggested that a provision might be enacted by the Indian Legislature to the effect that the powers of superintendence mentioned in the Letters Patent of the High Courts should not be interpreted as conferring powers of revision wider than those conferred by section 115 of the Code of Civil Procedure. The Committee's recommendations as thus modified have received considerable support from the Local Governments and High Courts who were consulted, and the Bill gives effect to them. Sub-section (1) of new section 115 follows the redraft prepared by the Committee, contained in paragraph 21 of Chapter 23 of their Report.

ALEXANDER MUDDIMAN.

The 23rd January, 1927.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 25th January, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 8 OF 1927.

*A Bill further to amend the Indian Limitation Act, 1908,
for certain purposes.*

Whereas it is expedient further to amend the Indian Limitation Act, 1908, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Limitation (Amendment) Act, 1927.

(2) It shall come into force on the 1st day of January, 1928.

Amendment of section 20, Act IX of 1908.

2. For the proviso to sub-section (1) of section 20 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), the following shall be substituted, namely :—

“Provided that, save in the case of a payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.”

Amendment of section 21, Act IX of 1908.

3. To section 21 of the said Act the following sub-section shall be added, namely :—

“(3) for the purposes of the said sections—

(a) an acknowledgment signed, or a payment made, in respect of any liability, by, or by the duly authorised agent of any widow or other limited owner of property who is governed by the Hindu law, shall be a valid acknowledgment or payment, as the case may be, as against a reversioner succeeding to such liability ; and

(b) where a liability has been incurred by, or on behalf of, a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly authorised agent of, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family.”

Amendment of First Schedule to Act IX of 1908.

4. (1) In article No. 132 in the First Division of the First Schedule to the said Act, for the *Explanation* in the first column the following *Explanation* shall be substituted, namely :—

“*Explanation.*—For the purposes of this article—

(a) the allowance and fees respectively called *malkana* and *haggs*, and

(b) the value of any agricultural or other produce the right to receive which is secured by a charge upon immoveable property,

shall be deemed to be money charged upon immoveable property.”

(2) In article No. 166, in the Third Division of the same Schedule, to the entry in the first column the following shall be added, namely :—

“including any such application by a judgment-debtor.”

STATEMENT OF OBJECTS AND REASONS.

In Chapter 41 of their Report the Civil Justice Committee made recommendations for a number of amendments in the Indian Limitation Act, 1908, and the Local Governments and High Courts were consulted in the matter. The consensus of opinion is in favour of the following recommendations :—

- (1) that the proviso to sub-section (1) of section 20 should be amended so as to make the payment of interest also subject to the condition that the fact of payment should appear in the handwriting of the person making the same ;
- (2) that limited owners under the Hindu law, and the *Karta* or manager of a joint Hindu family should be enabled to make acknowledgments and payments under sections 19 and 20 ;
- (3) that article 132 should be amended so as to make it clear that a suit to recover the value of paddy and such like produce charged on immovable property comes within this article ;
- (4) that article 166 should be amended so as to make it clear that it applies to a petition by a judgment-debtor under section 47 of the Code of Civil Procedure, 1908.

A Bill giving effect to these proposals was introduced in the Council of State on the 19th August 1926, and was passed by that Chamber on the 24th *idem*. When the Bill came up for consideration before the Legislative Assembly on the 31st August certain objections were raised to its second clause, and Government decided to postpone further consideration till the 1927 Session. The points raised in the debates have now been examined, and a fresh Bill has been drafted. In the present Bill a commencement clause has been inserted, and the wording of the latter part of the proviso to sub-section (1) of section 20 has been brought into conformity with the decisions of High Courts in regard to the expression "the fact of the payment appears in the handwriting of the person making the same."

2. The Committee's recommendation for the amendment of article 5 of the First Schedule to the Act was effected by Act XXX of 1925, and those for the amendment of articles 133 and 134 are under separate consideration. The remaining recommendations, viz., those in paragraphs 3, 4, 8, 9, 10, 11, 12 and 13, are not being pursued.

A. P. MUDDIMAN.

The 11th November, 1926.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 26th January, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 10 OF 1927.

A Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Civil Procedure (Second Appeals) Act, 1927.

Amendment of Order XLII in the First Schedule to Act V of 1908.

2. In Order XLII in the First Schedule to the Code of Civil Procedure, 1908—

- (a) in rule 1, before the words "The rules" the words "Subject to the provisions of this Order" shall be inserted; and
- (b) after rule 1 the following rule shall be added, namely :—

Security for costs in certain second appeals.

"2. Where the decree from which a second appeal is preferred affirms the decision of the Court by which the original decree was passed, the High Court shall, unless it dismisses the appeal under the procedure prescribed in rule 11 of Order XLI, require the appellant to deposit, in cash or Government securities, security to such amount as the Court thinks fit for the costs of the appeal and shall not call upon the respondent to appear and answer the appeal until such security has been furnished, and, if such security is not furnished within such time as the Court orders, the Court shall reject the appeal :

Provided that the High Court may dispense with such security in any case in which it is of opinion that the decision from which the appeal is preferred is on the face of it contrary to law or some usage having the force of law."

STATEMENT OF OBJECTS AND REASONS.

In order to protect the interests of a respondent in a second appeal in the matter of recouping his costs, the Civil Justice Committee recommended that in every second appeal to the High Court the appellant should deposit in Court by way of security for the respondent's costs, in cash or in Government promissory notes, a definite sum being the amount of any costs awarded against him in the lower Courts *plus* the amount at which the respondent, if successful, could tax his pleader's fee under the High Court rules. The opinions of Local Governments and High Courts and of the authorities consulted by them vary from complete acceptance of the Committee's recommendation to complete rejection, but a considerable body of opinion is in favour of restricting the proposal to second appeals from concurrent judgments only, subject to the following conditions :—

- (1) that the High Court should have power to dispense with security for costs when the judgment appealed from is on the face of it erroneous in law, or when a subsequent decision of the High Court or of the Privy Council has modified or altered the law ;
- (2) that security should be required only on admission of the appeal under Order XLI of the Code of Civil Procedure ;
- (3) that security should be limited to costs of the second appeal in the High Court ; and
- (4) that security should be furnished only in cash or Government securities.

These restrictions appear to be desirable, and it is considered that the proposal in its restricted form will ensure sufficient protection to a respondent in a second appeal. The Bill gives effect to the proposal.

ALEXANDER MUDDIMAN.

The 21st January, 1927.

L. GRAHAM,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 16 OF 1927.

A Bill further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908; It is hereby enacted as V of 1908. follows :—

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 192 .

Amendment of section 80, Act V of 1908.

2. To section 80 of the Code of Civil Procedure, 1908, V of 1908. the following *Exceptions* shall be added, namely :—

Exception I.—Where in the opinion of the Court, irreparable injury might be caused to the plaintiff, if the notice required by the section is insisted upon as a preliminary to the entertainment of the suit, the Court may entertain the suit without such preliminary notice.

Exception II.—Where in any suit the Court directs the Secretary of State for India in Council or a public officer to be added as a party to the suit under Order I, rule 10, the provisions of this section shall not apply, and it shall be sufficient to allow two months' time for the appearance of the Secretary of State for India in Council or such public officer.

STATEMENT OF OBJECTS AND REASONS.

NOTE ON EXCEPTION I.

Under section 80 of the Code of Civil Procedure, and the corresponding section 424 of the old Code, a distinction has been drawn between suits against the Secretary of State for India in Council, and a suit against a public officer, in respect of any act purporting to be done by such public officer in his official capacity. In the former case the provisions of the section regarding notice were held to be imperative in all classes of suits, whereas in the latter case distinction was drawn, so as to make the notice imperative in certain kinds of suits, for example, suits founded upon tort, and notice was held to be unnecessary in certain other kinds of suits for example, suits founded on contracts or suits, for the purpose of obtaining an injunction. But in 39 M. L. J. 152, their Lordships of the Madras High Court hold that no such distinction can be drawn and that in all cases, whether against the Secretary of State or against a public officer, notice is necessary in all kinds of suits. In holding such a view his Lordship Sadasiva Iyer, J. suggested that the Legislature may be moved to frame an *Exception* to section 80, C. P. C. This Bill is intended to set at rest the conflicting decisions of the various High Courts and is in pursuance of his Lordship's suggestions.

NOTE ON EXCEPTION II.

It often happens that a plaintiff brings a suit in the *bonā fide* belief that he can get his remedy against the private individual whom he has included as a defendant, and the defendant in such a suit raises the plea that the Secretary of State or a public officer is a necessary party to the suit. In such suits, if the Court orders under Order I, rule 10, that the Secretary of State or the public officer must be brought on record, the plaintiff is bound to amend the plaint by bringing the Secretary of State or public officer on the record. In such cases when the Secretary of State or the public officer is brought on record he raises the technical plea that section 80 is a bar to the maintainability of the suit itself. Thus it works a great hardship on the plaintiff. The object of section 80 is sufficiently served by allowing two months' time in the summons itself for the appearance of the Secretary of State or the public officer.

The 20th December, 1926.

C. DURAI SWAMI AIYANGAR.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 20 OF 1927.

A Bill further to amend the Indian Merchandise Marks Act, 1889.

WHEREAS it is expedient further to amend the Indian Merchandise Marks Act, 1889, for the purpose hereinafter appearing ; it is enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Merchandise Marks (Amendment) Act, 1927.

(2) It shall come into force on the first day of January, 1928.

Insertion of new section 12A in Act IV of 1889.

2. After section 12 of the Indian Merchandise Marks Act, 1889, the following section shall be inserted, IV of 1889. namely :—

Indication of local origin of imported goods.

“ 12A. (1) The Governor General in Council may, by notification in the Gazette of India, prescribe the kind, description or class of goods brought into British India to which a trade description giving the place or country in which they were made or produced shall be applied.

(2) The Governor General in Council may, after previous publication, make regulations, either general or special, prescribing—

- (a) the form in which the trade description shall be applied ;
- (b) the manner in which the trade description shall be applied, whether by a mark to be placed upon the goods, or in some other manner ; and
- (c) the time or occasion when the trade description shall be applied, and, in particular, whether the trade description shall be applied on importation only, or also on sale of the goods, either by wholesale or retail, in British India.

(3) If a person who is required under this section to apply a trade description to any goods fails to do so or contravenes any regulation made under sub-section (2), he shall be punished in the same manner as if he had been guilty of applying a false trade description to goods.”

STATEMENT OF OBJECTS AND REASONS.

There is no provision in the existing law in India which can compel the application of a trade description to imported goods. The result is that articles made in foreign countries, without any indication as to their local origin, are sometimes palmed off as Indian manufactures. It is a well known fact that a kind of piece-goods especially manufactured abroad is sometimes sold in India as hand-woven *Khaddar*. Again cheap hosiery, particularly cotton undershirts, are imported from Japan without any trade description and sold in this country as local manufacture. In such cases, the local origin of goods should be indicated so as to prevent fraud on the consumers, and to protect some of the struggling industries of India from unfair competition. It is proposed in this Bill to arm the Governor-General in Council with power to specify any imported goods in respect of which the importer, or the wholesale or retail dealer, shall be called upon to affix a trade description giving the place of origin thereof. It may be mentioned that the provisions are mainly adapted from the recommendations of a Departmental Committee of the British Government regarding legislative action in the United Kingdom in the interest of certain Empire or British goods.

K. C. NEOGY.

The 23rd December 1926.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 7th February 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 25 OF 1927.

A Bill further to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Insolvency (Amendment) Act, 192 .

Amendment of section 14, Act III of 1909.

2. Section 14 of the Presidency-towns Insolvency Act, 1909, shall be re-numbered as sub-section (1) of section 14, and to that section the following sub-section shall be added, namely :—

“(2) A debtor in respect of whom an order of adjudication, whether made under this Act or under the Provincial Insolvency Act, 1920, has been annulled owing to his failure to apply or to prosecute an application for his discharge shall not be entitled to present an insolvency petition without the leave of the Court by which the order of adjudication was annulled. Such Court shall not grant leave unless it is satisfied either that the debtor was prevented by any reasonable cause from presenting or prosecuting his application, as the case may be, or that the petition is founded on facts substantially different from those contained in the petition on which the order of adjudication was made.”

Amendment of section 21, Act III of 1909.

3. In sub-section (1) of section 21 of the same Act, after the words “annul the adjudication” the following words shall be added, namely :—

“and the Court may, of its own motion or on application made by the official assignee or any creditor, annul any adjudication made on the petition of a debtor who was, by reason of the provisions of sub-section (2) of section 14, not entitled to present such petition.”

Amendment of section 10, Act V of 1920.

4. In sub-section (2) of section 10 of the Provincial Insolvency Act, 1920, for the words “made under this Act” the words “whether made under the Presidency-towns Insolvency Act, 1909, or under this Act” shall be substituted.

Amendment of section 35, Act V of 1920.

5. In section 35 of the same Act, after the words “annul the adjudication” the following words shall be added, namely :—

“and the Court may, of its own motion or on application made by the receiver or any creditor, annul any adjudication made on the petition of a debtor who was, by reason of the provisions of sub-section (2) of section 10, not entitled to present such petition.”

STATEMENT OF OBJECTS AND REASONS.

It has been brought to the notice of the Government of India that the absence of a provision in the Presidency-towns Insolvency Act, 1909 (III of 1909), on the lines of section 10 (2) of the Provincial Insolvency Act, 1920 (V of 1920), leads to a large number of infructuous applications for adjudication after annulment of insolvency. The Bill is designed to bar such applications under the Presidency-towns Insolvency Act without the leave of the Court, whether the previous proceedings were under Act III of 1909 or Act V of 1920. When an insolvent obtains an adjudication on an application presented without leave of the Court, the Bill provides for its annulment by the Court on its own motion or at the instance of the Official Assignee or any creditor.

The Bill further seeks to bring the provisions of the Provincial Insolvency Act into line with the amendments proposed to be made in the Presidency-towns Insolvency Act.

The 11th January, 1927.

ALEXANDER MUDDIMAN.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February, 1927:—

LEGISLATIVE ASSEMBLY BILL NO. 15 OF 1927.

A Bill further to amend the Indian Penal Code.

WHEREAS it is expedient further to amend the Indian Penal Code; It is hereby enacted as follows:—

XLV of
1860.

Short title and
commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1927.

(2) It shall come into force immediately.

Amendment of
section 141, Act
XLV of 1860.

2. In section 141 of the Indian Penal Code—

XLV of
1860.

(i) for clause "Third" the following clause shall be substituted, namely:—

"Third.—To commit any offence punishable under Chapters XVI and XVII";

(ii) in clause "Fourth", for the words "to enforce any right or supposed right" the words "to enforce or defend any right to which a person is not entitled" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The Bill is intended to remove the redundancy and ambiguity in two clauses of section 141 of the Indian Penal Code and to set at rest the sharp conflict of decisions between the various High Courts consequent thereupon. In the ensuing Notes on Clauses, reasons are given in support of the amendment.

The 10th December, 1926.

H. S. GOUR.

NOTES ON CLAUSES.

Clause 3 (1).—This clause declares an assembly to be unlawful if its common object is "to commit any mischief or criminal trespass, or other offence". Do the words "or other offence" mean *ejusdem generis*? If so, an assembly to commit murder, theft and other offences against the person and property punishable in Chapters XVI and XVII would be excluded. But this was certainly not the intention. On the other hand, if the words "or other offence" include an offence not only punishable under the Penal Code, but also under the special or local law, with imprisonment for at least six months (*see s. 40*), then the sense is obviously too wide. I have elsewhere traced the history of this clause which I have amended in the Bill to mean what the Legislature had really intended. (1 Penal Law, 3rd Ed., p. 758, para. 1274.)

Clause 3 (2).—This is an important clause and its inapt concluding wording has given rise to a crop of cases. It declares an assembly unlawful if its common object is "to enforce any right or supposed right". The meaning of these words is not clear. In the first place, "any right" includes "a supposed right". Suppose, however, that the two are intended to contrast a real from an imaginary right, then does it prevent the enforcement of a real right by the use of force? If so, the clause contravenes the general exceptions enacted in sections 96—106 which presumably qualify it. The two parts of the Code are really contradictory and it has led to a sharp conflict in the decided cases, reference to which will make this note too long. I have, however, commented on it at greater length elsewhere (1 Penal Law, 3rd Ed., pp. 759—764, paragraphs 1275—1284), and my reasons there given must be my justification for drafting this Bill. I do not consider the retention of "supposed right" happy. For, when a person has no right at all, his supposition is a mere pretext and it has no existence in the eye of the law. The clause was really intended to imply that a person shall not enforce or defend his right to which he is not legally entitled by the use of force. On the other hand, if he has a legal right, its enforcement is legal and safeguarded by the general exceptions (sections 96—106). This is intended to be clarified in the clause as altered in the Bill.

H. S. GOUR.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 8th February, 1927 :—

COUNCIL OF STATE BILL NO. 1 OF 1927.

*A Bill further to amend the Provident Funds Act, 1925,
for a certain purpose.*

WHEREAS it is expedient further to amend the Provident Funds Act, 1925, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provident Funds (Amendment) Act, 1927.

Amendment of
section 2, Act XIX
of 1925.

2. In clause (d) of section 2 of the Provident Funds Act, 1925, for the words "for teachers in educational institutions" the following words shall be substituted, namely :—

"of persons employed in educational institutions or employed by bodies existing solely for educational purposes."

STATEMENT OF OBJECTS AND REASONS.

Teachers in non-pensionable services are eligible to join a provident fund constituted for their benefit by the authority of the Government. The object of the Bill is to extend the same privilege of making provision for old age to all classes of educational employees, holding non-pensionable posts, whether serving as teachers, or otherwise, in educational institutions or employed under educational administrative bodies.

The 21st August, 1926.

MD. HABIBULLAH.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 31st January, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 12 OF 1927.

*A Bill further to amend the Indian Limitation Act, 1908,
for a certain purpose.*

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title and
commencement.

1. (1) This Act may be called the Indian Limitation (Amendment) Act, 1927.

(2) It shall come into force on the 1st day of January, 1928.

Amendment of
article 182, Schedule I, Act IX of
1908.

2. In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Article No. 182, in clause 5 of the entry in the third column, for the word "applying" the words "the final orders passed on an application made" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

In paragraph 4 of Chapter 30 of their Report the Civil Justice Committee recommend that section 48 of the Code of Civil Procedure, 1908, and Article 182 of the First Schedule to the Indian Limitation Act, 1908, should be amended so as to reduce the limit of time for execution in the case of money decrees from 12 to 6 years, and to raise the period of limitation from 3 to 6 years, but to permit a decree-holder even after the expiry of 6 years to apply for execution if he can show that the judgment-debtor has come into some property or that he has recently discovered that the judgment-debtor has property. If, however, it is decided to retain Article 182 in its present form, the Committee recommend that it should be amended so as to provide that the period of 3 years should begin not from the date of the last application for execution, but from the date of the last order on such a previous application. The first proposal is not considered to be satisfactory, and the Bill gives effect to the alternative proposal.

The 23rd January, 1927.

ALEXANDER MUDDIMAN.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 22 OF 1927.

A Bill to repeal and amend certain provisions of the Indian Criminal Law Amendment Act, 1908, and the Code of Criminal Procedure, 1898.

WHEREAS it is expedient to amend certain provisions of the Indian Criminal Law Amendment Act, 1908, and of section 491 of the Code of Criminal Procedure, 1898; ^{XIV of 1908.} ^{V of 1898.} It is hereby enacted as follows :—

Short title.

1. This Act may be called the Criminal law Repealing and Amending Act, 1927.

Amendment of section 15, Act XIV of 1908.

2. Sub-clause (b) of clause (2) of section 15 of the Indian Criminal Law Amendment Act, 1908 (hereinafter referred to as the said Act), is hereby repealed. ^{XIV of 1908.}

Insertion of new section 16A in Act XIV of 1908.

3. After section 16 of the said Act the following section shall be inserted, namely :—

Appeal to the High Court.

"16A. Any person deeming himself aggrieved by an order of the Governor General in Council declaring such association to be unlawful, and any person convicted under the provisions of section 17 may appeal to the High Court on the ground that the declaration should never have been made."

Amendment of section 491, Act V of 1898.

4. In sub-section (3) of section 491 of the Code of Criminal Procedure, 1898, after the words "Nothing in this section applies to persons" the following shall be inserted, namely :—

"other than British subjects".

STATEMENT OF OBJECTS AND REASONS.

(1) By Resolution No. 533-Political, dated the 21st March 1921, a Committee was appointed to examine certain repressive laws. The Committee issued its report in the course of which it recommended their repeal but counselled for the nonce the retention of Part II of the Indian Criminal Law Amendment Act, 1908, adding that it may be possible for the Government to undertake the necessary legislation for their repeal during the Delhi Session of 1922. (See paragraph 26, sub-para. 2, of the Report.) As the Government did not undertake the necessary legislation, I introduced a Bill for the Repeal of Part II of the Indian Criminal Law Amendment Act. It was passed on the 23rd September, 1924, by 71 to 40 votes, the Government opposing it. The Bill was next sent to the Council of State for their concurrence, but that body has rejected it. It is proposed, for the present, to introduce this revised measure in the hope that it might be acceptable to Government.

(2) The provisions of section 491 of the Code of Criminal Procedure are in the nature of Habeas Corpus controlled in England by the Habeas Corpus Act of 1679, the operation of which can only be temporarily suspended by the Legislature on the ground of urgent political necessity. (See 10 Halsbury's Laws of England, s. 98, p. 44.) The Habeas Corpus Act merely re-enacts the 29th section of the Magna Charta which provides that no person shall be taken or imprisoned unless by lawful judgment of his Peers or the law of the land. "The King", said Chief Justice Markam, "cannot arrest a man upon suspicion of felony or treason, as any of his subjects may; because if he should wrong a man by such arrest, he can have no remedy against him." [See Hallam's Constitutional History of England, Ch. VII, p. 274 (Ward Lock & Co.).] In England, the Habeas Corpus Act is a bulwark of the people's liberties. Its corresponding provisions in this country should give at least the British subjects in India a similar protection.

The 10th December, 1926.

H. S. GOUR.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 19 OF 1927.

A Bill to regulate and improve the Law Reports.

WHEREAS it is expedient to diminish the multitude and expenses of the Law Reports published in India and to improve their quality and to regulate their publications; It is hereby enacted as follows :—

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|---|---|
| Short title, extent and commencement. | 1. (1) This Act may be called the Indian Law Reports Act, 192 . |
| | (2) It extends to the whole of British India. |
| | (3) It shall come into force on the..... |
| Definition. | 2. "Authorised reports" means and includes reports of law cases published by, or under the authority of, the Government of India, or any Provincial Government, or the Court deciding the cases reported, or a Bar Council. |
| Authority given to only authorised reports. | 3. No Court shall allow to be cited, or itself refer to, the report of any case decided after the coming into force of this Act other than a report published in the authorised reports. |
| Authority of judicial decisions. | 4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed. |
| Repeal. | 5. The Indian Law Reports Act, 1875, is hereby ^{XVIII of} repealed. _{1875.} |

STATEMENT OF OBJECTS AND REASONS.

The ever increasing number of Law Reports in India stands in need of check and proper regulation. All sorts of law journals and reports, good, bad and indifferent, are issued from different places. Mostly the same rulings are sooner or later published in different publications. Sometimes rulings which have ceased to be operative by the force of a subsequent ruling or change of law are published to swell the volume of reports, or to bring them up to the stipulated number of pages. With the same object numerous pages dealing with mere facts which have no bearing on the legal aspect of the case are also published. Sometimes rulings published in one journal are published in another after several months, thus causing confusion and embarrassment. The number and volume of Law Reports is becoming simply scandalous and requires check and regulation.

The 15th November, 1926.

MUHAMMAD YAKUB.

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, MARCH 24, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 18 OF 1927.

A Bill further to amend the Inland Steam Vessels Act, 1917.

WHEREAS it is expedient further to amend the Inland Steam Vessels Act, 1917; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Inland Steam Vessels (Amendment) Act, 1927.

(2) It shall come into force on the first day of January 1928.

Insertion of new sections 54A and 54 B in Act I of 1917.

2. In Chapter VI of the Inland Steam Vessels Act, 1917, after section 54, the following section shall be inserted, namely :—

Maximum and minimum freights and fares to be fixed.

“54 A. The Governor General in Council may, by notification in the Gazette of India, prescribe the maximum and minimum rates of freights and fares which it shall be lawful for the owner of an inland steam vessel to charge for the conveyance of goods and passengers.

Advisory Committees

“54 B. The Local Government may make rules for the appointment of Advisory Committees to advise the owner of an inland steam vessel on questions affecting the interests of passengers, and may prescribe by rules the constitution and functions of such Committees.”

STATEMENT OF OBJECTS AND REASONS,

The control exercised by Government over inland steam vessels carrying on goods and passenger service in this country does not extend to fixing the rates at which they can levy charges on the public. Virtually in the position of monopolists, the inland steamer organisations enjoy unfettered freedom in this matter. In Bengal and Assam where they supply very considerable facilities for transport, their charges are considered to be unduly high. There has been for some time a good deal of local public agitation against this state of things, but to no effect. It seems reasonable that, when Government exercise a certain amount of control over Railways owned and managed by private companies, in the matter of regulation of freights and fares, similar control should be assumed in respect of inland steam vessels also. It is proposed in this Bill to invest Government with authority to fix maximum and minimum freights and fares that can be lawfully charged by inland steamer services, on the analogy of similar authority in regard to Company-managed Railways. While the maximum rates would protect the public against exorbitant demands, the minimum scales to be fixed under the Bill would prevent unfair rate-wars which have in the past defeated indigenous efforts at organising inland steamer service in competition with powerful combines in Bengal.

A second provision in this Bill is to enable Advisory Committees to be constituted and attached to the inland steamer concerns at different important stations, more or less on the lines of Railway Advisory Councils. As matters stand at present, the agents of the monopolist companies running inland steamer services are not in touch with public opinion, and do not pay adequate attention to the grievances of the travelling public.

The 23rd December 1926.

K. C. NEOGY.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 21 OF 1927.

A Bill to regulate marriages of children amongst the Hindus.

WHEREAS it is necessary to regulate marriages of children amongst the Hindus and to lay down the age under which such marriages shall be invalid ; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Hindu Child Marriage Act, 192 .

(2) It extends to the whole of British India, including the Scheduled Districts.

Definitions.

2. In this Act,—

(a) "Hindu" includes Jains, Sikhs, Brahmos, Arya Samajists and Buddhists.

(b) "Guardian" means a guardian as defined in the VIII of Guardians and Wards Act, 1890. 1890.

Marriageable age of a girl.

3. Notwithstanding any provision to the contrary existing anywhere, no marriage of a Hindu girl, except as provided in section 5, shall be valid, unless she has, on the day of her marriage, completed her twelfth year.

Marriageable age of a boy.

4. No marriage of a Hindu boy shall be valid unless he has, on the day of his marriage, completed his fifteenth year.

Marriage of girl below 12 valid if guardian obtains licence.

5. The marriage of a Hindu girl who is under twelve years of age shall be valid if her guardian obtains, before such marriage, a licence for the performance of such marriage from the Magistrate of the district in which the girl ordinarily resides, authorising or permitting such marriage :

Provided that no such licence shall be granted, where the girl is under eleven years of age.

Grant of licence.

6. The Magistrate of the district shall grant a licence for the marriage of a Hindu girl to her guardian, who files a written application for the grant of such licence with an affidavit swearing to the fact that the girl has completed her eleventh year, and that the guardian conscientiously believes that the tenets of the religion which the girl professes enjoin that the girl should not be kept unmarried any longer.

STATEMENT OF OBJECTS AND REASONS.

1. The object of the Bill is two-fold. The main object, by declaring invalid the marriages of girls below 12 years of age, is to put a stop to such girls becoming widows. The second object, by laying down the minimum marriageable ages of boys and girls, is to prevent, so far as may be, their physical and moral deterioration by removing a principal obstacle to their physical and mental development.

2. According to the Census Report of 1921 A.D., there were in that year 612 Hindu widows who were less than one year old, 2,024 who were under 5 years, 97,857 who were under 10 years, and 332,024 who were under 15 years of age. The deplorable feature of the situation, however, is that the majority of these child widows are prevented by Hindu custom and usage from remarrying. Such a lamentable state of affairs exists in no country, civilised or uncivilised, in the world. And it is high time that the law came to the assistance of these helpless victims of social customs, which, whatever their origin or justification in old days, are admittedly out of date and are the source of untold misery and harm at the present time.

3. According to the Brahmanas, the most ancient and the most authoritative book containing the laws of the Hindus, the minimum marriageable age of a man is 24 and a woman 16. And if the welfare of the girl were the only consideration in fixing the age, the law should fix 16 as the minimum age for the valid marriage of a girl. But amongst the Hindus, there are people who hold the belief that a girl should not remain unmarried after she attains puberty. And as in this country, some girls attain puberty at an age as early as 12, the Bill fixes 12 as the minimum age for the valid marriage of a Hindu girl.

4. In order, however, to make the Bill acceptable to the most conservative Hindu opinion, provision is made in the Bill that for conscientious reasons the marriage of a Hindu girl would be permissible even when she is 11 years old. No Hindu Sastra enjoins marriage of a girl before she attains puberty, and the time has arrived and public opinion sufficiently developed, when the first step towards the accomplishment of the social reform so necessary for the removal of a great injustice to its helpless victims and so essential to the vital interests of a large part of humanity, should be taken, by enacting a law declaring invalid the marriages of girls below 11 years of age.

5. With regard to boys, the Sastras do not enjoin marriage at a particular age. Thoughtful public opinion amongst the Hindus would fix 18 as the minimum marriageable age for a boy. But as some classes of the Hindus would regard such legislation as too drastic, the Bill takes the line of least resistance by providing 15 years as the age below which the marriage of a Hindu boy shall be invalid. Even in England, where child marriages are unknown and early marriages are exceptions, it has been found necessary to fix the ages below which boys and girls may not marry.

M. HARBILAS SARDA.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February, 1927 :—

LEGISLATIVE ASSEMBLY BILL No. 23 OF 1927.

A Bill to limit the interest charged on loans of various kinds in British India, and to bring the law in conformity to the needs of the people.

WHEREAS it is expedient to limit the interest charged on loans of various kinds in British India, and to bring the law in conformity to the needs of the people ; It is hereby enacted as follows :—

Short title, extent
and commencement.

1. (1) This Act may be called the Interest Act, 19 .
- (2) It extends to the whole of British India.
- (3) It shall come into force on.....

Amount of interest.

2. No creditor, whether of a secured or unsecured loan, shall be entitled to recover interest, either payable at one time or by instalments, exceeding the principal amount originally lent or due at the date of suit, whichever is less.

Powers of Court to
grant relief in case
of excessive
interest.

3. Notwithstanding anything hereinbefore said, where in any suit to which this Act applies, whether heard *ex parte* or otherwise, the Court has reason to believe—

- (a) that the interest is excessive, and
- (b) that the transaction was, as between the parties thereto, substantially unfair,

the Court may exercise all or any of the following powers, namely, may—

- (i) reopen the transaction, take an account between the parties and relieve the debtor of all liability in respect of any excessive interest ;
- (ii) notwithstanding any agreement purporting to close previous dealings and to create a new obligation, reopen any account already taken between them and relieve the debtor of all liability in respect of any excessive interest and, if anything has been paid or allowed in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof ;
- (iii) set aside either wholly or in part or reverse or alter any security given or agreement made in respect of any loan, and if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem fit.

Principal in case of
bonds executed for
arrears.

4. In the case of a bond executed for arrears of principal and interest due on a prior bond, the principal for purposes of this Act is the principal of the prior bond.

Savings

5. This Act shall not apply to usufructuary mortgages.

Repeals.

6. Provisions of other laws and regulations, so far as they are inconsistent with the provisions of this Act, are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The Bill is designed to prevent the accumulation of interest for long periods and thereby save many a debtor from the clutches of covetous and clever creditors.

There is a rule in Hindu Law which is called *Damdoopat*. It is in operation in the Bombay Presidency, Perar and the town of Calcutta, but it is limited in its scope and is applicable only to Hindus. This rule cannot be taken as a purely religious law of the Hindu community; it is laid down only to safeguard the debtors' interests as the Hindu Law sanctions the taking of interest on loans. The Muslim *Shariat* has forbidden to take interests at all, and so there could be no occasion for such emergency. Under the circumstances of the heterogenous society of India, it is quite justifiable and necessary that the present Bill be passed for the benefit of a debtor irrespective of the caste, creed and colour. The present Bill is wider in its scope and is more in conformity to the incessant demands and needs of the people of India, and the creditor will not be able to ruin his debtor with his waiting game.

The words "by instalments" in clause 2 are added in order to safeguard against the contrivance on the part of the creditors to nullify the effect of the provisions of the Bill by recovering interest on a system of instalments. The clause 3 is embodied to prevent the creditors from making injudicious bargains and is taken from the Usurious Loans Act of 1918.

The Interest Act of 1839 (Act XXXII) and the Usury Repeals Act of 1855 (XXVIII), which are absolutely inconsistent with both the Hindu and Muhammadan Laws on the subject, were passed at a time when the Councils were devoid of Indian representation by their own people and have proved ruinous.

The Usurious Loans Act of 1918 although it gives power to Courts to curtail the rate of interest under certain circumstances and which is also not exercised duly yet provides no remedy to stop accumulation beyond a certain limit.

MUHAMMAD YAKUB.

The 15th November 1926.

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, MARCH 31, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st February, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 24 OF 1927.

A Bill further to amend the Societies Registration Act, 1860, for certain purposes.

WHEREAS it is expedient further to amend the Societies Registration Act, 1860, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Societies Registration (Amendment) Act, 1927 .

Amendment of section 20, Act XXI of 1860.

2. In section 20 of the Societies Registration Act, XXI of 1860—

(a) after the words " the diffusion of useful knowledge " the words " the diffusion of political education " shall be inserted, and

(b) at the end the words " or for any other purpose of public utility " shall be added.

STATEMENT OF OBJECTS AND REASONS.

It is intended by this Bill to extend the scope of the Societies Registration Act, 1860, by making it applicable to some purposes which have been perhaps inadvertently omitted from section 20. It is believed that the Registrar of Societies under this Act has refused registration to a number of Societies or Associations who wished to be incorporated under the Act, on the ground that they were of a political character. In any case all doubt should be cleared up by the use of express words which may make such refusal impossible. There is no reason why the benefit of incorporation, and the legal status for all practical purposes conferred by such incorporation, should be denied to even political societies, inasmuch as the work and purpose of political education is certainly as useful and altruistic as any other mentioned in the Act. The wish for open registration and incorporation shown by any political institution should rather put a premium and not a discount upon the legal facilities which may be given to it. The present Act being enacted more than sixty years ago, political education may naturally have been then too negligible to be taken account of for the purposes of the Act. But there has been very considerable advance in this direction since then, and the antiquated provisions of the Act ought to be brought up to date.

N. C. KELKAR.

POONA :

The 6th December 1926.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 8th February, 1927 :—

COUNCIL OF STATE BILL NO. 2 OF 1927.

*A Bill further to amend the Bengal Tenancy Act, 1885,
for a certain purpose.*

WHEREAS it is expedient further to amend the Bengal Tenancy Act, 1885, for the purpose hereinafter appearing ;
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bengal Tenancy (Amendment) Act, 1927.

Amendment of
section 153,
Act VIII of 1885.

2. In section 153 of the Bengal Tenancy Act, 1885, VIII of 1885, for the words "one hundred" and the word "fifty" the words "two hundred" and "one hundred", respectively, shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The Civil Justice Committee recommended in paragraph 10 of Chapter 48 of their report that the existing pecuniary limits of Rs. 50 in the case of munsifs and Rs. 100 in the case of Subordinate or District Judges in section 153 of the Bengal Tenancy Act, 1885, which restricts the right of appeal in rent suits should be raised to Rs. 100 and Rs. 200, respectively, subject to the maintenance of the present exceptions in cases where a question of title or rate of rent is concerned. Both the Government of Bengal and the Calcutta High Court who were consulted have accepted the Committee's recommendation and the Bill gives effect to it.

Central legislation is proposed in this case as the adoption of the proposal would affect the appellate jurisdiction which the High Court at Calcutta possesses, as under section 20 of the Bengal, Agra and Assam Civil Courts Act, 1887, read with section 153 of the Bengal Tenancy Act, an appeal lies to the High Court from any decree or order of a District Judge or Additional Judge in a suit for the recovery of rent in which the amount claimed exceeds Rs. 100.

S. R. DAS.

The 4th February, 1927.

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, APRIL 21, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY.]

A Bill to make provision to enable volunteer police forces to be constituted temporarily and employed locally for the purposes of preserving the public peace and protecting persons and property, and to define the powers and duties of such police.

WHEREAS it is expedient to make provision to enable volunteer police forces to be constituted temporarily and employed locally for the purposes of preserving the public peace and protecting persons and property, and to define the powers and duties of such police; it is hereby enacted as follows :—

Short title, extent
and commencement.

1. (1) This Act may be called the Volunteer Police Act, 1927.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) The Local Government may, by notification in the local official Gazette, direct that this Act shall come into force in the province, or any part thereof specified in the notification, on such date as may be so specified.

Interpretation

2. (1) In this Act, unless there is anything repugnant in the subject of context,—

(a) “district” means any area which is a district for the purposes of the Code of Criminal Procedure, V of 1898, 1898;

(b) “prescribed” means prescribed by rules made under this Act; and

(c) “Superintendent of Police” means the chief officer of police in a district other than a Presidency-town or the Rangoon Town District.

(2) In the Presidency-towns and the Rangoon Town District, the powers and duties under this Act of the District Magistrate and of the Superintendent of Police shall be exercised by the Commissioner of Police and references to those officers shall be construed as references to the Commissioner of Police.

Constitution of district volunteer police force.

3. (1) The District Magistrate of any district may, for the better preservation of the public peace and protection of the inhabitants of, and property in, the district, direct the constitution, for such period as he may fix, of a volunteer police force for the district or any part thereof and call for volunteers therefor in such manner as he thinks fit.

(2) The District Magistrate or, in any district other than a Presidency-town or the Rangoon Town District, a Magistrate authorised by him in this behalf, may appoint to the volunteer police force any person fit and willing to be appointed thereto and assign to him any rank in the volunteer police force not superior to that of an inspector :

Provided that, in a district other than a Presidency-town or the Rangoon Town District, no person shall be appointed to the volunteer police force or have any rank assigned to him therein save on the recommendation of, or with the concurrence of, the Superintendent of Police.

(3) Every police officer duly appointed to the volunteer police force shall receive on his appointment a certificate in the prescribed form signed by the District Magistrate, which shall entitle him to exercise all the powers and functions and have all the privileges of a volunteer police officer under this Act.

(4) The District Magistrate may, from time to time, extend the period fixed under sub-section (1) and, notwithstanding that the period so fixed or any period by which it has been extended has not expired, may at any time order that the volunteer police force be disbanded.

Duties of volunteer police.

4. A member of the volunteer police force shall not be employed otherwise than in the district in which he has been appointed and for the purpose of preserving the public peace and protecting the inhabitants of, and property in, that district or, where the force has been constituted for a part only of the district, that part, and no volunteer police officer shall be required to take any part in the investigation of any offence or the prosecution of any person for an offence or to perform any duty other than such as the Local Government may by rules made under this Act prescribe as a duty ancillary to the purposes aforesaid or to any of them.

Powers of volunteer police.

5. Every volunteer police officer shall, for the purposes of the execution of his duties as such police officer, have all the powers, privileges and protection of a regular police officer appointed under the Police Act, 1861, or any other law for the time being in force in the district regulating the powers of the regular police force employed therein :

V of 1861.

Provided that no volunteer police officer not expressly empowered in this behalf by the Superintendent of Police shall exercise control over, or be entitled to issue orders to, any regular police officer or have any of the powers of an officer in charge of a police-station.

Control.

6. Every volunteer police officer shall, in the execution of his duty, act under the direction and control of the Superintendent of Police of the district in which he is appointed, and shall be bound to carry out all lawful orders of any volunteer police officer superior to him in rank, and of any regular police officer to whom he is, under the orders of the Superintendent of Police, subordinate:

Provided that no volunteer police officer shall be subordinate to, or in any way subjected to the control of, any regular police officer inferior in rank to a sub-inspector, unless such regular police officer is in charge of a police-station.

Regulations.

7. The Superintendent of Police may, subject to the control of the District Magistrate, make regulations to provide for the organisation, training and equipment of the volunteer police force.

Power to resign.

8. Any volunteer police officer may resign his office after giving to the Superintendent of Police such notice as may be prescribed.

Power to promote, reduce, discharge or dismiss.

9. The Superintendent of Police may, at his discretion, promote to any rank not superior to that of an inspector, or reduce in rank, discharge or dismiss, any volunteer police officer, and any volunteer police officer so discharged or dismissed shall deliver up to the Superintendent of Police or such authority as the Superintendent of Police may appoint the certificate issued to him under section 3 and his equipment.

Penalties.

10. Every volunteer police officer who is guilty of any violation of duty or wilful breach or negligence of any rule, regulation or lawful order made by any competent authority, or who withdraws himself from the duties of his office without having given the prescribed notice of his intention to resign therefrom or otherwise without the permission of a competent authority or refuses to give up his certificate or equipment when discharged or dismissed, shall be punishable, on conviction by a Presidency Magistrate or Magistrate of the first class, with fine which may extend to one hundred rupees.

Allowances and compensation.

11. (1) Every volunteer police officer shall be entitled to an allowance on account of expenses necessarily incurred in the execution of his duty and, if without any default on his own part he contracts any illness or sustains any injury in the execution of his duty, he, or, if he dies from the effect of an illness or injury so contracted or sustained, his dependants, shall be entitled to compensation on such scale as may be prescribed.

(2) If any question arises as to the amount of the allowance to be granted to a volunteer police officer in respect of expenses incurred in the execution of his duty, it shall be referred to the District Magistrate, whose decision shall be final and shall not be questioned in any Court.

Control of Local Government.

12. All powers and duties under this Act of the District or any other Magistrate or of the Superintendent of Police shall be respectively exercised and performed subject to any general or special orders of the Local Government.

Power to make rules.

13. The Local Government may make rules consistent with this Act to provide for all or any of the following matters, namely:—

- (a) the form of certificate to be issued to members of a volunteer police force under section 3;
- (b) the duties which volunteer police officers may be required to perform under this Act;
- (c) the allowances and scales of compensation payable to volunteer police officers or their dependants under section 11; and
- (d) any other matter which is to be or may be prescribed or in respect of which the Local Government considers that provision should be made to give effect to this Act.

STATEMENT OF OBJECTS AND REASONS.

The Government of India have had under consideration the provision of means for employing men of good will, on suitable occasions and under suitable conditions, in the preservation of law and order. It has been represented to them that not enough has been done to enable citizens of this country to assist the cause of the public peace, to which, it is suggested, they are less indifferent than is commonly considered the case. Accordingly, with a view to encouraging the growth of a civic sense, Government have in the Bill devised means of enabling the public to co-operate if they so desire with the regular police force.

2. Occasions have arisen in the past when the police force in districts has been subjected to almost intolerable strain or even reduced to a state of exhaustion. The possibility of the recurrence of such occasions in the future cannot be disregarded, and Government, therefore, while attaching importance to the educational value of co-operation by private citizens in assisting in the maintenance of law and order, desire also to provide for a material accession of strength as occasion may require and the good will of citizens may facilitate.

3. The Bill, therefore, empowers District Magistrates in those provinces in which the Local Government may have brought it into force, and under the general and special control of that Government, to constitute temporary volunteer police forces for use within the district. It also enables similar action to be taken in Presidency-towns. It is necessary to proceed by way of legislation in order to invest volunteer police officers with statutory powers, duties and privileges.

4. The volunteer character of the force is secured by provisions for appointment of only such persons as are fit and willing to be appointed, and it will be maintained by the provision for voluntary resignation, subject to due notice. In order to throw the force open to all classes in the community, middle-aged and young, educated and uneducated, the Bill provides for the entertainment of police officers of various ranks and not merely constables. All appointments will be honorary, but provision is made for allowances for out-of-pocket expenses, and for compensation for illness or injury.

5. The purposes for which the force will be entertained are the preservation of the public peace, the protection of the inhabitants and the security of property in the part of the country where it is appointed. The duties of volunteer police officers will be only those which are strictly ancillary to these purposes, and will not include investigation or prosecution. In the discharge of these duties the volunteer police will have the powers, privileges and protection of a regular police officer appointed under the Police Act, 1861.

6. The scheme to which the Bill gives shape contemplates that the volunteer force should not only include rank and file, but should also find its own officers. It is nevertheless of the essence of the scheme in its educational aspect, and of prime importance for administrative purposes that the force should be closely co-ordinated with the regular police and should be controlled by professional officers. It is proposed to effect these objects by placing the force under the direction and control of the Superintendent of Police and by subjecting every volunteer police officer to the lawful orders of any volunteer police officer superior to him in rank and of any regular police officer to whom he is, under the orders of the Superintendent of Police, subordinate. But the members of the force will not be subject to the control of any subordinate officer of the regular police lower in rank than an officer in charge of a police-station.

Provisions regarding discipline are as simple as possible. Departmental punishments will be limited to reduction in rank, discharge or dismissal. Otherwise discipline will be maintained by the imposition of a fine on conviction at a judicial trial.

ALEXANDER MUDDIMAN.

Dated the 23rd March 1927.



The Calcutta Gazette

THURSDAY, MAY 5, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY.)

A Bill further to amend the Indian Mines Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Indian Mines Act, 1923, for certain purposes; It is hereby enacted IV of 1923. as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Mines (Amendment) Act, 1923.

(2) It shall come into force on the 1st day of April, 1930.

Amendment of section 23, Act IV of 1923.

2. In section 23 of the Indian Mines Act, 1923 (herein- IV of 1923. after referred to as the said Act), after clause (c) the following clause shall be inserted, namely:—

“(d) for more than twelve hours in any consecutive period of twenty-four hours”.

Insertion of new sections 23A, 23B and 23C in Act IV of 1923.

3. After section 23 of the said Act the following sections shall be inserted, namely:—

Limitation of working hours.

“23A. Work shall not be carried on in any mine for a period exceeding twelve hours in any consecutive period of twenty-four hours except by a system of shifts so arranged that not more than one shift of persons employed in work of the same kind shall be at work in the mine at the same time.

Special provision for change of shifts

23B. Where work is carried on by a system of shifts, the manager of the mine may, notwithstanding anything contained in clause (d) of section 23, not more than once in every seven days, permit persons who have been employed on a shift of a duration not exceeding eight hours to

return to work after an interval of not less than four hours on another complete shift of a duration not exceeding eight hours and permit persons who have been employed on a shift of a duration not exceeding twelve hours to return to work after an interval of not less than six hours for another complete shift of a duration not exceeding twelve hours.

Notice regarding hours of work.

23C. (1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of shifts, the time of the commencement and of the end of work for each shift. A copy of each such notice shall be sent to the Chief Inspector, if he so requires.

(2) In the case of a mine at which mining operations commence after the 7th day of April, 1930, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any shift, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change, if he so requires or if the original notice was sent to him."

Amendment of sections 24 and 25, Act IV of 1923.

4. In sections 24 and 25 of the said Act, after the word and figures "section 23" the words, figures and letter "or section 23A" shall be inserted.

Insertion of new section 25A in Act IV of 1923.
Employment in different mines.

5. After section 25 of the said Act the following section shall be inserted, namely:—

"25A. Save in such circumstances as may be prescribed, no person shall employ or permit to be employed in a mine any person whom he knows or has reason to believe to have already been employed in any other mine during the preceding twelve hours".

Amendment of section 28, Act IV of 1923.

6. (1) Section 28 of the said Act shall be re-numbered as sub-section (1) of section 28, and to that sub-section after the word "employments" the following shall be added, namely:—

"and, where work is carried on by a system of shifts, of the shift in which each such person works".

(2) To the same section the following sub-section shall be added, namely:—

"(2) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person, and no person shall be employed except during the hours of work specified for him in the register".

Amendment of section 31, Act IV of 1923.

7. In section 31 of the said Act,—

(a) in sub-section (3) the words "or rule", in both places where they occur, the words "in the case of a regulation", and the words "and in the case of a rule to every Mining Board constituted in the province" shall be omitted; and

(b) after sub-section (3) the following sub-section shall be inserted, namely:—

"(3A) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the province for which it is proposed to make the rule, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions".

STATEMENT OF OBJECTS AND REASONS.

The weekly hours of work for persons employed in mines are limited to 60 in the case of persons working above ground and to 54 in the case of persons working below ground. But there is no statutory limit on the daily hours of work, so that, for example, there is nothing to prevent a miner from being employed for 17 or 18 hours in one day. During the debates in the Legislative Assembly on the Mines Bill (which afterwards passed into law as the Mines Act, 1923) a proposal was made to place a direct limitation on the daily hours of work. The proposal was rejected, but the Hon'ble Sir Charles Innes on behalf of Government promised to examine, in consultation with Local Governments, the question of introducing a compulsory system of shifts in mines. The main part of the present Bill is the outcome of this examination.

2. While the primary object of the Bill is the imposition of a limitation on the daily hours of work, it must not be supposed that hours of work in mines are generally excessive. It is probably the case that in few mines do the miners maintain a standard of more than eight hours' work daily on the average; and it is not anticipated that the Bill, if passed, will have any appreciable effect in reducing hours of work. The main advantages which the Bill is designed to secure are of a different character. The present system (or lack of system) in many mines encourages miners to spend long hours underground and makes satisfactory supervision difficult. It tends to increase the number of accidents in several ways, and it diminishes the potential efficiency of the Indian miner. The shift system has been introduced with success in a number of mines, and it would probably be introduced more generally without compulsion were it not for the danger that labour may gravitate to those mines where restrictions are absent. That danger will disappear when regularity in working hours is made the general rule, and it is believed that the system now proposed will be to the general advantage both of the mineowner and the miner.

3. There is no suggestion from any quarter that a limitation should be imposed on the hours within which work may be carried on in a mine, and it is intended that mineowners should be at liberty to carry on work for the whole 24 hours. If the mineowner is willing to restrict the total hours of work to the limit that may be prescribed for the individual worker, the declaration beforehand of the hours within which the mine is to be worked is sufficient to enable control to be exercised over working hours. But when a mineowner desires that the mine should be worked for a longer period than the daily limit prescribed for the individual worker, the enforcement of a system of shifts is essential if control has to be maintained. Further, the Government of India are satisfied that, if effective control is to be exercised, it is necessary that the shifts should be so arranged that they do not overlap. In other words, if the workmen of any particular class, e.g., coal cutters, are to be divided into a number of shifts, not more than one such shift should be employed in the mine at the same time.

4. If this is accepted, it means that there are only two shift systems which can reasonably be considered. These are the two-shift system, in which the limit of each shift is 12 hours and the three-shift system in which the limit is 8 hours. The three-shift system is already in force in a few mines in India; but the Government of India consider that it is, at present at any rate, out of the question to enforce an 8 hours' day in Indian mines. They have therefore reached the conclusion that it is impracticable at present to attempt to fix a lower limit for the daily hours of work than twelve. Under the Bill, if passed, mineowners will have the option of (1) limiting the hours of working over the mine as a whole to 12 daily, and (2) introducing a system of shifts, not exceeding 12 hours each, so arranged that the hours under two shifts of the same type of worker do not overlap. The detailed provisions by which this end is to be secured are explained in the Notes on Clauses, where an explanation is also given of clause 7 which is unconnected with the main part of the Bill.

NOTES ON CLAUSES.

Clause 1.—It is considered desirable that, even after the Bill is passed, mineowners should have a period of grace in which to make the adjustment that will be necessary in many mines. It is therefore proposed that the Bill should not be brought into operation until 1st April, 1930.

Clause 2.—The amendment proposed makes it unlawful to employ any person for more than 12 hours in any consecutive 24 hours.

Clause 3.—The new section 23A enforces the introduction of shifts in all mines working for more than 12 years out of 24. Section 23B is designed to allow for a periodical change of shifts, necessary wherever the workers are not to be compelled to work within the same hours (e.g., night hours) for indefinite periods. Section 23C provides for the notices necessary to enable the inspecting staff to enforce the Act.

Clause 4.—Section 24 of the main Act exempts the supervising staff from the provisions limiting hours of work and section 25 enables the manager to employ labour in contravention of these provisions in the case of an emergency on work necessary to protect the safety of the mine or the workers in it. This clause is rendered necessary by the introduction of the new section 23A.

Clause 5.—This provision is required to prevent the evasion of the limitations on hours of work which would be possible if double employment were permitted.

Clause 6.—Section 28 of the main Act provides for the maintenance of a register of workers and their hours of work. The first amendment to it is consequential on the introduction of the shift system: the second is necessary for the enforcement of the restriction on daily hours; and coupled with the new section 23C, gives the inspecting staff what is required to enable them to ascertain whether the law is being observed or not.

Clause 7.—Under the existing law, all regulations and rules have to be referred to Mining Boards before they are published for criticism. It has been brought to the notice of Government that in the case of rules, which are made by Local Governments, this provision leads in some cases to unnecessary delay, and that Mining Boards may, on occasion, more suitably be consulted after criticisms have been received from the general public. The proposed amendment will give Local Governments the power to consult Mining Boards at the stage which appears best to them. No change is proposed in the law relating to regulations, which are framed by the Government of India.

B. N. MITRA.

The 5th March, 1927.



The Calcutta Gazette

THURSDAY, MAY 19, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 28th March 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 28 OF 1927.

A Bill to amend section 96 of the Code of Civil Procedure, 1908, for a certain purpose.

WHEREAS it is expedient to amend section 96 of the Code of Civil Procedure, 1908, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1927. V of 1908.

Amendment of section 96, Act V of 1908.

2. To section 96 of the Code of Civil Procedure, 1908, the following sub-section shall be added, namely :—

“(4) No appeal shall lie from the decision of any Court the pecuniary limits of whose jurisdiction exceed two thousand rupees, or of any other Court specially designated in this behalf by the Local Government, determining under section 47 an objection by a judgment-debtor to the execution of a decree for money on the ground that the decretal amount has been paid or adjusted in whole or in part, if the amount claimed to have been paid or adjusted does not exceed, in the case of such first-mentioned Court, five hundred rupees, or, in the case of such other Court, two hundred rupees.”

STATEMENT OF OBJECTS AND REASONS.

In paragraph 2 of Chapter 30 of their Report the Civil Justice Committee recommend *inter alia* that in cases where orders in execution of money decrees are passed under section 47 of the Code of Civil Procedure, 1908, on pleas by the judgment-debtor that payment or part payment had been made, there should be no appeal from such orders when passed by specially empowered Munsifs or corresponding officers up to a limit of Rs. 200, and by Subordinate Judges or corresponding officers up to a limit of Rs. 500. The Bill seeks to give effect to this recommendation by an amendment of section 96 of the Code. As the Code, however, does not provide for the classification of Subordinate Courts, a limit of Rs. 2,000 has been adopted to indicate the difference between the two classes of Courts with final jurisdiction.

A. P. MUDDIMAN.

The 10th March 1927.

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE following Bill was introduced in the Legislative Assembly on the 28th March 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 30 OF 1927.

A Bill to amend the Indian Bar Councils Act, 1926, for certain purposes.

WHEREAS it is expedient to amend the Indian Bar Councils Act, 1926, for the purposes hereinafter appearing; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Bar Councils (Amendment) Act, 1927.

Amendment of section 8, Act XXXVIII of 1926.

2. In section 8 of the Indian Bar Councils Act, 1926 (hereinafter referred to as the said Act), sub-sections (3), (4) and (5) shall be renumbered as sub-sections (5), (6) and (7), respectively, and after sub-section (2) the following sub-sections shall be inserted, namely:—

“(3) Entries in the roll shall be made in the order of seniority, and such seniority shall be determined as follows, namely:—

(a) all such persons as are referred to in clause (a) of sub-section (2) shall be entered first in the order in which they were respectively entitled to seniority *inter se* immediately before the date on which this section comes into force in respect of the High Court; and

(b) the seniority of any other person admitted to be an advocate of the High Court under this Act after that date shall be determined by the date of his admission or, if he is a barrister, by the date of his admission or the date on which he was called to the Bar, whichever date is earlier:

Provided that, for the purposes of clause (b), the seniority of a person who before his admission to be an advocate was entitled as of right to practise in another High Court shall be determined by the date on which he became so entitled.

(4) The respective rights of pre-audience of advocates of the High Court shall be determined by seniority:

Provided that the Advocate General shall have pre-audience over all other advocates, and King's Counsel shall have pre-audience over all advocates except the Advocate General.”

Amendment of section 9, Act XXXVIII of 1926.

3. In sub-section (4) of section 9 of the said Act, after the words “any such application” the words “or to prescribe the conditions under which such persons shall be entitled to practise or plead” shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The Select Committee on the Indian Bar Councils Bill (which was passed as Act XXXVIII of 1926) inserted in clause 8 of that Bill the following provisions to regulate seniority and pre-audience among advocates :—

- (1) Entries in the roll shall be made in the order of seniority and the seniority of each advocate shall be determined by the date of his admission to be an advocate or, in the case of a person referred to in clause (a) of sub-section (2), by the date on which he was admitted to be an advocate, vakil or pleader, as the case may be, of the High Court.
- (2) Subject to any special orders which the High Court may think fit to make in individual cases, the respective rights of pre-audience of advocates of the High Court shall be determined by seniority :

Provided that the Advocate General shall have pre-audience over all other advocates, and King's Counsel shall have pre-audience over all advocates except the Advocate General.

These provisions were omitted from the Bill as finally enacted on the understanding that they would be circulated for opinion. This has now been done. The opinions received disclose a lack of unanimity. On the whole, however, the majority of the High Courts prefer that, subject to the preservation of rights existing at the time that the Bar Councils Act comes into force, seniority and pre-audience should be regulated in accordance with the recommendations in paragraphs 18 and 21 of the Indian Bar Committee's report which may be summarised as follows :—

“Both on the appellate and original sides, advocates who are barristers should take precedence *inter se* according to the dates of call to the Bar, advocates who are not barristers according to the dates on which they became entitled to practise in a High Court, and a member of the former class should take precedence over another advocate only if he was called to the Bar before the other became entitled to practise in a High Court. An advocate of one High Court enrolling in another should take precedence from the date he was first entitled to practise in a High Court, and a barrister who was only called to the Bar after admission to practise in a High Court should take precedence from the date of admission to practise in a High Court.”

The Bill gives effect to these recommendations. The opportunity has been taken to make a small amendment in sub-section (4) of section 9 of the Act of 1926, in consequence of criticisms during the debate in the Legislative Assembly on the 2nd September 1926.

ALEXANDER MUDDIMAN.

NEW DELHI, the 23rd March 1927.

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 28th March, 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 32 OF 1927.

A Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898.

WHEREAS it is expedient to make better provision for the protection of children against unlawful intercourse with them during their infancy ; It is hereby enacted as follows :—

- Short title. 1. This Act may be called the Children's Protection Act, 192 .
- Amendment of section 375, Act XLV of 1860. 2. In section 375 of the Indian Penal Code (hereinafter referred to as the said Code), in clause *Fifthly*, for the word "fourteen" the word "sixteen" shall be substituted. XLV of 1860.
- Amendment of section 376, Act XLV of 1860. 3. In section 376 of the said Code, the words beginning with "unless the woman raped" and ending with "or with fine, or with both," shall be omitted.
- Insertion of new section 376A in Act XLV of 1860. 4. After section 376 of the said Code the following section shall be inserted, namely :—
- Illicit married intercourse. "376A. Whoever has sexual intercourse with his own wife, the wife not being under thirteen years of age and being under fourteen years of age, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."
- Amendment of Schedule II, Act V of 1892. 5. (1) In Schedule II to the Code of Criminal Procedure, 1898, in the entry relating to section 376 of the Indian Penal Code— V of 1898.

XLV of 1860.

(a) the first entry, namely :—

" 376	Rape— If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Chief Presidency Magistrate or District Magistrate."
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shall be omitted ; and

(b) in the second entry for the figures "12" the figures "13" shall be substituted.

(2) In the same Schedule after the entries relating to section 376 the following entry shall be inserted, namely :—

" 376A	Illicit married intercourse by husband with wife not under 13 and under 14 years of age.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or with fine, or both.	Presidency Magistrate or Magistrate of the first class."
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STATEMENT OF OBJECTS AND REASONS.

In the last Assembly I had given notice of my intention to introduce a Bill designed to protect married and unmarried girls below the age of 15. Subsequently, the Government introduced a similar Bill affording protection to girls below the ages of 13 and 14 within and outside marital relations. During the course of the discussion on this Bill the Hon'ble the Home Member gave an undertaking in the Assembly to circulate those clauses of my Bill which were not covered by the Government Bill. These clauses provided for a new offence of unlawful intercourse.

I have in this Bill sought to protect married girls between 13 and 14 and unmarried girls below 16, prescribing a smaller penalty in the former case. My object in protecting married girls up to 14 is this—

- (a) It is a fact now sufficiently established that a majority of girls do not attain puberty in this country before that age; and the mere appearance of puberty is not the same thing as the attainment of sufficient physical development to enable them to endure the travails of maternity;
- (b) Premature cohabitation is responsible for the appallingly high death rate in the case of infants before they are even 12 months old; which in several provinces averages 33 per cent.;
- (c) It weakens the offspring that survive, weakens the mother and is responsible for the high death rate and low vitality of the people addicted to this evil;
- (d) Early cohabitation is equally detrimental to the married couple; the husband suffers in his education, and so does the wife; while the family has to mourn frequent bereavement and suffers from the illness of its members.

In the case of unmarried girls the last Assembly had no objection to extending the protection to all minors even up to the attainment of their majority.

It is hoped that public opinion is now sufficiently aroused to the evils of early cohabitation and my Bill, if passed, will I hope act as a salutary deterrent upon persons who still remain addicted to a practice highly detrimental to the growth of a healthy and vigorous nation.

H. S. GOUR.

DELHI, the 19th February 1927.

W. T. M. WRIGHT,

Secretary to the Government of India (offg).



The Calcutta Gazette

THURSDAY, JUNE 2, 1927.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly, and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 28th March 1927 :—

LEGISLATIVE ASSEMBLY BILL NO. 29 OF 1927.

A Bill further to amend the Indian Divorce Act for a certain purpose.

WHEREAS it is expedient further to amend the Indian Divorce Act for the purpose hereinafter appearing; It is IV of 1869 hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Divorce (Amendment) Act, 1927.

Insertion of new section 17A in Act IV of 1869.

2. After section 17 of the Indian Divorce Act the IV of 1869 following section shall be inserted, namely :—

Appointment of officer to exercise duties of King's Proctor.

"17A. The Governor General in Council may appoint for each High Court of Judicature established by Letters Patent an officer who shall, within the jurisdiction of the High Court for which he is appointed, have the like right of showing cause why a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor, and the Governor General in Council may make rules regulating the manner in which the right shall be exercised and all matters incidental to, or consequential on, such exercise."

STATEMENT OF OBJECTS AND REASONS.

Under sub-section (4) of section 1 of the Indian and Colonial Divorce Jurisdiction Act, 1926 (16 & 17 Geo. 5, Ch. 40), proceedings before a High Court in India, in exercise of the jurisdiction conferred by that Act, are to be conducted in accordance with rules made by the Secretary of State in Council of India with the concurrence of the Lord Chancellor. These rules are required to provide *inter alia* for conferring on such officials as may be appointed for the purpose within the jurisdiction of each High Court the like right of showing cause why a decree *nisi* should not be made absolute as is exercisable in England by the King's Proctor under sections 181 and 182 of the Supreme Court of Judicature (Consolidation) Act, 1925 (15 & 16 Geo. 5, Ch. 49). These provisions apply in cases where the parties concerned are British subjects domiciled in England or in Scotland. The Bill proposes to make provision in the Indian Divorce Act for the appointment of an official to perform similar functions in respect of persons domiciled in India.

A. P. MUDDIMAN.

The 16th March 1927.

W. T. M. WRIGHT,

Secretary to the Government of India (offg.).

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